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Presidential Documents

Title 3—

The President

Notice of June 10, 2003

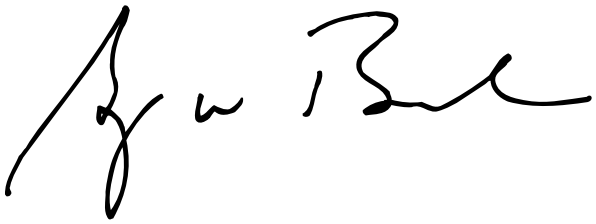
Continuation of the National Emergency with Respect to the Risk of Nuclear Proliferation Created by the Accumulation of Weapons-Usable Fissile Material in the Territory of the Russian Federation

On June 21, 2000, the President issued Executive Order 13159 (the ''Order'') blocking property and interests in property of the Government of the Russian Federation that are in the United States, that hereafter come within the United States, or that are or hereinafter come within the possession or control of United States persons that are directly related to the implementation of the Agreement Between the Government of the United States of America and the Government of the Russian Federation Concerning the Disposition of Highly Enriched Uranium Extracted from Nuclear Weapons, dated February 18, 1993, and related contracts and agreements (collectively, the ''HEU Agreements''). The HEU Agreements allow for the downblending of highly enriched uranium derived from nuclear weapons to low enriched uranium for peaceful commercial purposes. The Order invoked the authority, *inter alia*, of the International Emergency Economic Powers Act, 50 U.S.C. 1701 *et seq.*, and declared a national emergency to deal with the unusual and extraordinary threat to the national security and foreign policy of the United States posed by the risk of nuclear proliferation created by the accumulation of a large volume of weapons-usable fissile material in the territory of the Russian Federation.

A major national security goal of the United States is to ensure that fissile material removed from Russian nuclear weapons pursuant to various arms control and disarmament agreements is dedicated to peaceful uses (such as downblended to low enriched uranium for peaceful commercial uses), subject to transparency measures, and protected from diversion to activities of proliferation concern. Pursuant to the HEU Agreements, weapons-grade uranium extracted from Russian nuclear weapons is converted to low enriched uranium for use as fuel in commercial nuclear reactors. The Order blocks and protects from attachment, judgment, decree, lien, execution, garnishment, or other judicial process the property and interests in property of the Government of the Russian Federation that are directly related to the implementation of the HEU Agreements and that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of United States persons.

The national emergency declared on June 21, 2000, must continue beyond June 21, 2003, to provide continued protection from attachment, judgment, decree, lien, execution, garnishment, or other judicial process for the property and interests in property of the Government of the Russian Federation that are directly related to the implementation of the HEU Agreements and subject to U.S. jurisdiction. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency with respect to weapons-usable fissile material

in the territory of the Russian Federation. This notice shall be published in the **Federal Register** and transmitted to the Congress.



THE WHITE HOUSE,
June 10, 2003.

[FR Doc. 03–15031
Filed 6–11–03; 8:45 am]
Billing code 3195–01–P

Rules and Regulations

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DEPARTMENT OF HOMELAND SECURITY

8 CFR Part 212

[ICE No. 2278–03]

RIN 1653 AA25

Authority of the Secretary of Homeland Security; Parole Authority

AGENCY: Department of Homeland Security.

ACTION: Final rule.

SUMMARY: On November 25, 2002, the President signed into law the Homeland Security Act of 2002 (Pub. L. 107–296) (HSA), which created the new Department of Homeland Security (Department or DHS). The functions of the Immigration and Naturalization Service (Service) and all authorities with respect to those functions, transferred to DHS on March 1, 2003, and the Service was abolished on that date, pursuant to the HSA and the Department of Homeland Security Reorganization Plan, as modified (Reorganization Plan). DHS is promulgating this rule to continue the process of conforming the text of Title 8 of the Code of Federal Regulations to the governmental structures established in the HSA and Reorganization Plan. The rule addresses parole authority under section 212(d)(5) of the Immigration and Nationality Act. With regard to parole authority the rule implements changes in the field structures of the Bureau of Citizenship and Immigration Services (BCIS), the Bureau of Customs and Border Protection (CBP), and the Bureau of Immigration and Customs Enforcement (ICE) by amending the titles of officers given parole authority.

DATES: This final rule is effective June 12, 2003.

FOR FURTHER INFORMATION CONTACT: Catherine Muhletaler, Bureau of Immigration and Customs Enforcement, Office of General Counsel, 425 I Street, NW., Room 6100, Washington, DC 20536, telephone (202) 514–2895.

SUPPLEMENTARY INFORMATION:

Explanation of Changes

This rule amends parole authority under 8 CFR 212.5 to reflect the new titles under the organizational structures of the BCIS, CBP, and ICE. The term ''Commissioner'' has been replaced with ''Secretary'' to reflect the transfer of authority over parole issues from the Service to DHS and the component organizations of the BCIS, CBP, and ICE. Component heads of the three bureaus are the Director of the BCIS, Commissioner of CBP and Assistant Secretary for ICE. The rule does not make any substantive changes to the standards for making determinations regarding requests for parole.

Procedural Requirements

Good Cause Exception

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking or delayed effective date is unnecessary as this rule relates to agency organization and management. Accordingly, it is not a ''rule'' as that term is used by the Congressional Review Act (Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)), and the reporting requirement of 5 U.S.C. 801 does not apply.

Executive Order 12866

This rule is limited to agency organization, management or personnel matters, and therefore is not a regulation or rule as defined by Executive Order 12866. It has also been determined that this rulemaking is not a significant regulatory action for the purposes of Executive Order 12866. Accordingly, a regulatory impact analysis is not required.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Act of 1996. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Executive Order 12988: Civil Justice Reform

This rule meets the applicable standards set forth in section 3(a) and (b)(2) of Executive Order 12988.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by state, local and tribal government, in the aggregate, or by the private sector of $100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Executive Order 13132

This rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, the Department of Homeland Security has determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, Public Law 104–13, all Departments are required to submit to the Office of Management and Budget (OMB), for review and approval, any reporting requirements inherent in a final rule. This rule does not impose any new reporting or recordkeeping requirements under the Paperwork Reduction Act.

List of Subjects in 8 CFR Part 212

Administrative practice and procedure, Aliens, Immigration, Reporting and recordkeeping requirements.

■ Accordingly, part 212 of chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 212—DOCUMENTARY REQUIREMENTS: NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE

■ 1. The authority citation for part 212 is revised to read as follows:

Authority: 8 U.S.C. 1101 and note, 1102, 1103, 1182 and note, 1184, 1187, 1225, 1226, 1227, 1228; Public Law 107–296, 116 Stat 2135 (6 U.S.C. 1, *et seq.*); 8 CFR part 2.

■ 2. Section 212.5 is amended by:
■ a. Revising paragraph (a);
■ b. Revising paragraph (b)(3) introductory text;
■ c. Revising paragraph (b)(5);
■ d. Revising paragraph (c);
■ e. Revising paragraph (d) introductory text;
■ f. Revising paragraph (d) (1); and by
■ g. Revising paragraph (e)(2)(i).

The revisions read as follows:

§ 212.5 Parole of aliens into the United States.

(a) The authority of the Secretary to continue an alien in custody or grant parole under section 212(d)(5)(A) of the Act shall be exercised by the Assistant Commissioner, Office of Field Operations; Director, Detention and Removal; directors of field operations; port directors; special agents in charge; deputy special agents in charge; associate special agents in charge; assistant special agents in charge; resident agents in charge; field office directors; deputy field office directors; chief patrol agents; district directors for services; and those other officials as may be designated in writing, subject to the parole and detention authority of the Secretary or his designees. The Secretary or his designees may invoke, in the exercise of discretion, the authority under section 212(d)(5)(A) of the Act.

(b) * * *

(3) Aliens who are defined as juveniles in § 236.3(a) of this chapter. The Director, Detention and Removal; directors of field operations; field office directors; deputy field office directors; or chief patrol agents shall follow the guidelines set forth in § 236.3(a) of this chapter and paragraphs (b)(3)(i) through (iii) of this section in determining under what conditions a juvenile should be paroled from detention:

* * * * *

(5) Aliens whose continued detention is not in the public interest as determined by those officials identified in paragraph (a) of this section.

(c) In the case of all other arriving aliens, except those detained under § 235.3(b) or (c) of this chapter and paragraph (b) of this section, those officials listed in paragraph (a) of this section may, after review of the individual case, parole into the United States temporarily in accordance with section 212(d)(5)(A) of the Act, any alien applicant for admission, under such terms and conditions, including those set forth in paragraph (d) of this section, as he or she may deem appropriate. An alien who arrives at a port-of-entry and applies for parole into the United States for the sole purpose of seeking adjustment of status under section 245A of the Act, without benefit of advance authorization as described in paragraph (f) of this section shall be denied parole and detained for removal in accordance with the provisions of § 235.3(b) or (c) of this chapter. An alien seeking to enter the United States for the sole purpose of applying for adjustment of status under section 210 of the Act shall be denied parole and detained for removal under § 235.3(b) or (c) of this chapter, unless the alien has been recommended for approval of such application for adjustment by a consular officer at an Overseas Processing Office.

(d) *Conditions.* In any case where an alien is paroled under paragraph (b) or (c) of this section, those officials listed in paragraph (a) of this section may require reasonable assurances that the alien will appear at all hearings and/or depart the United States when required to do so. Not all factors listed need be present for parole to be exercised. Those officials should apply reasonable discretion. The consideration of all relevant factors includes:

(1) The giving of an undertaking by the applicant, counsel, or a sponsor to ensure appearances or departure, and a bond may be required on Form I–352 in such amount as may be deemed appropriate;

* * * * *

(e) * * *

(2)(i) *On notice.* In cases not covered by paragraph (e)(1) of this section, upon accomplishment of the purpose for which parole was authorized or when in the opinion of one of the officials listed in paragraph (a) of this section, neither humanitarian reasons nor public benefit warrants the continued presence of the alien in the United States, parole shall be terminated upon written notice to the alien and he or she shall be restored to the status that he or she had at the time of parole. When a charging document is served on the alien, the charging document will constitute written notice of termination of parole, unless otherwise specified. Any further inspection or hearing shall be conducted under section 235 or 240 of the Act and this chapter, or any order of exclusion, deportation, or removal previously entered shall be executed. If the exclusion, deportation, or removal order cannot be executed within a reasonable time, the alien shall again be released on parole unless in the opinion of the official listed in paragraph (a) of this section the public interest requires that the alien be continued in custody.

* * * * *

Dated: June 3, 2003.

Tom Ridge,

Secretary of Homeland Security.

[FR Doc. 03–14932 Filed 6–10–03; 2:49 pm]

BILLING CODE 4410–10–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003–NM–98–AD; Amendment 39–13191; AD 2003–12–06]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model CL–600–2C10 (Regional Jet Series 700 & 701) Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Bombardier Model CL–600–2C10 (Regional Jet Series 700 & 701) series airplanes. This action requires a revision to the Airplane Flight Manual (AFM) to prohibit operations into known or forecast icing conditions under certain conditions. This action also requires an inspection to detect damage of the wing anti-ice (WAI) ducts to determine if the external shrouds of the ducts are open or cracked, and replacement of any damaged duct with a new duct or a duct with the same part number. This action also provides for an optional terminating action for the AFM revision and inspection. This action is necessary to prevent the WAI ducts from collapsing, cracking, or rupturing, which could cause leakage of hot air in the under-floor pressurized area of the fuselage when the anti-ice system is turned on. Such leakage of hot air results in insufficient heat for the anti-ice system and consequent aerodynamic degradation. This action is intended to address the identified unsafe condition.

DATES: Effective June 27, 2003.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 27, 2003.

Comments for inclusion in the Rules Docket must be received on or before July 14, 2003.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2003–NM–98–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9–anm–iarcomment@faa.gov.* Comments sent via the Internet must contain ''Docket No. 2003–NM–98–AD'' in the subject line and need not be submitted in triplicate. Comments sent via fax or the Internet as attached electronic files must be formatted in Microsoft Word 97 or 2000 or ASCII text.

The service information referenced in this AD may be obtained from Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centreville, Montreal, Quebec H3C 3G9, Canada. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dan Parrillo, Aerospace Engineer, Systems and Flight Test Branch, ANE–172, FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7505; fax (516) 568–2716.

SUPPLEMENTARY INFORMATION: Transport Canada Civil Aviation (TCCA), which is the airworthiness authority for Canada, notified the FAA that an unsafe condition may exist on certain Bombardier Model CL–600–2C10 (Regional Jet Series 700 & 701) series airplanes. TCCA advises that it has received several reports of failure of the wing anti-ice (WAI) ducts. Failure analysis indicates that the WAI ducts, located in the under-floor pressurized area, can collapse due to insufficient strength for the applied differential pressure. This condition, if not corrected, could result in cracks or rupture of the WAI ducts, and consequent leakage of hot air in the under-floor pressurized area of the fuselage when the anti-ice system is turned on. Such leakage of hot air results in insufficient heat for the anti-ice system and consequent aerodynamic degradation.

TCCA Airworthiness Directive

TCCA issued airworthiness directive CF–2003–07, effective on March 25, 2003, to ensure the continued airworthiness of these airplanes in Canada. The Canadian airworthiness directive requires an amendment to the Master Minimum Equipment List (MMEL)/Minimum Equipment List (MEL) to prohibit operations into known or forecast icing conditions under certain conditions, and accomplishment of the actions specified in CRJ 700/900 Series Regional Jet (Bombardier) Alert Service Bulletin A670BA–30–007 (described below).

Explanation of Relevant Service Information

The manufacturer has issued CRJ 700/900 Series Regional Jet (Bombardier) Alert Service Bulletin A670BA–30–007, Revision A, dated April 15, 2003. The alert service bulletin describes procedures for a detailed inspection to detect damage of the four WAI ducts and to determine if the external shrouds of the ducts are open or cracked, and replacement of any damaged duct with a new duct or a duct with the same part number (P/N) that is free of any dent or other handling damage. The alert service bulletin also describes procedures for eventual replacement of all four WAI ducts with new ducts.

TCCA classified this service bulletin as mandatory and issued Canadian airworthiness directive CF–2003–07 to ensure the continued airworthiness of these airplanes in Canada.

FAA's Conclusions

This airplane model is manufactured in Canada and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, TCCA has kept the FAA informed of the situation described above. The FAA has examined the findings of TCCA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD is being issued to prevent the WAI ducts from collapsing, cracking, or rupturing, and consequent leakage of hot air in the under-floor pressurized area of the fuselage when the anti-ice system is turned on. Such leakage of hot air results in insufficient heat for the anti-ice system and consequent aerodynamic degradation. This AD requires a revision to the Limitations Section of the Airplane Flight Manual (AFM) to prohibit operations into known or forecast icing conditions under certain conditions. This AD also requires accomplishment of the actions specified in the service bulletin described previously, except as described below.

Differences Between This AD and Service Bulletin/Canadian Airworthiness Directive

Operators should note that, although the service bulletin specifies that the manufacturer may be contacted for disposition of certain conditions of the surrounding equipment and structure of the external shroud of the WAI ducts, this AD requires the inspection of those areas to be accomplished per a method approved by either the FAA or TCCA (or its delegated agent). In light of the type of inspection that will be required to address the identified unsafe condition, and in consonance with existing bilateral airworthiness agreements, the FAA has determined that, for this AD, an inspection approved by either the FAA or TCAA (or its delegated agent) will be acceptable for compliance with this AD.

The Canadian airworthiness directive requires an amendment to the MMEL/MEL to prohibit operations into known or forecast icing conditions under certain conditions. In the United States, the MMEL and the MEL are not developed or approved as part of the certification requirements of the airplane. Therefore, in order to prohibit operations into known or forecast icing conditions under certain conditions, the FAA has determined that it is necessary to address the identified unsafe condition by requiring a revision to the Limitations Section of the AFM. In accordance with 14 CFR 121.628(b)(2), this AD has the effect of overriding the MMEL/MEL, so it has the same effect as the Canadian airworthiness directive.

Interim Action

The FAA is considering further rulemaking action to supersede this AD to require replacement of all four WAI ducts with new ducts per CRJ 700/900 Series Regional Jet (Bombardier) Alert Service Bulletin A670BA–30–007, which would terminate the inspection and AFM requirements of this AD. However, the planned compliance time for the replacement is sufficiently long so that notice and opportunity for prior public comment will be practicable.

Changes to 14 CFR Part 39/Effect on the AD

On July 10, 2002, the FAA issued a new version of 14 CFR part 39 (67 FR 47997, July 22, 2002), which governs the FAA's airworthiness directives system. The regulation now includes material that relates to altered products, special flight permits, and alternative methods of compliance (AMOC). Because we have now included this material in part 39, only the office authorized to approved AMOCs is identified in each individual AD.

Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Submit comments using the following format:

• Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.

• For each issue, state what specific change to the AD is being requested.

• Include justification (*e.g.*, reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2003–NM–98–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. Section 39.13 is amended by adding the following new airworthiness directive:

2003–12–06 Bombardier, Inc. (Formerly Canadair): Amendment 39–13191. Docket 2003–NM–98–AD.

Applicability: Model CL–600–2C10 (Regional Jet Series 700 & 701) series airplanes, serial numbers 10004 through 10119 inclusive; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent the wing anti-ice (WAI) ducts from collapsing, cracking, or rupturing, consequent leakage of hot air in the under-floor pressurized area of the fuselage when the anti-ice system is turned on, insufficient heat for the anti-ice system, and aerodynamic degradation, accomplish the following:

Referenced Service Information

(a) The term ''service bulletin,'' as used in this AD, means the Accomplishment Instructions of CRJ 700/900 Series Regional Jet (Bombardier) Alert Service Bulletin A670BA–30–007, Revision A, dated April 15, 2003, including Appendices A and B, dated March 18, 2003.

Airplane Flight Manual (AFM) Revision

(b) Within 48 hours after the effective date of this AD, revise the Limitations Section of the CRJ 700 AFM to include the following (this may be accomplished by inserting a copy of this AD into the AFM):

''1. Anti-Ice Bleed Leak Detection Controller (AILC) Channels (see Note 1):

Flight with ''WING A/I FAULT'' status message on the engine indication and crew alerting system (EICAS) is not authorized, except as follows:

One may be inoperative as indicated by ''WING A/I FAULT'' status message on EICAS provided:

(a) Wing Anti-Ice switch is selected OFF, and

(b) Operations are not conducted into known or forecast icing conditions.

2. Wing/Fuselage Anti-Ice Bleed Leak Detection Loops (see Note 1):

Flight with Wing/Fuselage Anti-Ice Bleed Leak Detection Loops inoperative is not authorized, except as follows:

One loop (A or B) may be inoperative provided:

(a) Wing Anti-Ice switch is selected OFF, and

(b) Operations are not conducted into known or forecast icing conditions.

Note 1: This limitation supersedes the Master Minimum Equipment List (MMEL).''

Detailed Inspection and Corrective Actions if Necessary

(c) Within 150 flight hours after the effective date of this AD, do a detailed inspection to detect damage of the four WAI ducts and to determine if the external shrouds of the WAI ducts are open or cracked, per the alert service bulletin.

(1) If no discrepancy is found, no further action is required by this AD.

(2) If any external shroud of a WAI duct is found open or cracked, before further flight, inspect the surrounding equipment and structure per a method approved by the Manager, New York Aircraft Certification Office, FAA, or Transport Canada Civil Aviation (TCCA) (or its delegated agent).

(3) If any damaged WAI duct is found, before further flight, replace the WAI duct with a new duct or a duct with the same part number (P/N) that is free of any dent, crease, or other handling damage, per the alert service bulletin.

Note 1: For the purposes of this AD, a detailed inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

Optional Terminating Action

(d) Replacement of all four WAI ducts with new ducts having P/N GG670–80504–5 or –6, or P/N GG670–80312–3 or –4, as applicable, per the service bulletin, terminates the requirements of this AD. After doing the replacement, the AFM revision required by paragraph (b) of this AD may be removed.

Reporting Requirement

(e) Submit a report of the results of the inspection required by paragraph (c) of this AD per the alert service bulletin specified in paragraph (c) of this AD. Information collection requirements contained in this AD have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

(1) If the inspection was done after the effective date of this AD: Submit the report within 14 days after the inspection.

(2) If the inspection was accomplished prior to the effective date of this AD: Submit the report within 14 days after the effective date of this AD.

Alternative Methods of Compliance

(f) In accordance with 14 CFR 39.19, the Manager, New York ACO, FAA, is authorized to approve alternative methods of compliance for this AD.

Incorporation by Reference

(g) Unless otherwise specified in this AD, the actions must be done per CRJ 700/900 Series Regional Jet (Bombardier) Alert Service Bulletin A670BA–30–007, Revision A, dated April 15, 2003, including Appendices A and B, dated March 18, 2003. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 2: The subject of this AD is addressed in Canadian airworthiness directive CF–2003–07, effective on March 25, 2003.

Effective Date

(h) This amendment becomes effective on June 27, 2003.

Issued in Renton, Washington, on June 5, 2003.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–14676 Filed 6–11–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–ANE–06–AD; Amendment 39–13190; AD 2003–12–05]

RIN 2120–AA64

Airworthiness Directives; McCauley Propeller Systems 1A103/TCM Series Propellers

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), that is applicable to McCauley Propeller Systems 1A103/TCM series propellers. That AD currently requires an initial inspection for cracks in the propeller hub in accordance with a dye penetrant inspection procedure, replacement of propellers with cracks that do not meet acceptable limits, rework of propellers with cracks that meet acceptable limits, and repetitive inspections of all affected propellers. This amendment allows additional rework operations to be performed at more than one bolt hole location. This amendment is prompted by the need to clarify the requirement to use a steel backing plate and Mylar gasket during installation of the propeller, and to relax the replacement requirements. The actions specified in the proposed AD are intended to prevent propeller separation due to hub fatigue cracking, which can result in loss of control of the airplane.

DATES: Effective July 17, 2003. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 17, 2003.

ADDRESSES: The service information referenced in this AD may be obtained from McCauley Propeller Systems, 3535 McCauley Drive, PO Drawer 5053, Vandalia, OH 45377–5053; telephone: 937–890–5246; fax: 937–890–6001. This information may be examined, by appointment, at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Timothy Smyth, Aerospace Engineer, Chicago Aircraft Certification Office, FAA, Small Airplane Directorate, 2350 East Devon Avenue, Room 323, Des Plaines, IL 60018; telephone: (847) 294–7132; fax: (847) 294–7834.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 97–06–16, Amendment 39–9973 (62 FR 16064, April 4, 1997), which is applicable to McCauley Propeller Systems 1A103/TCM series propellers, was published in the **Federal Register** on September 27, 2002 (67 FR 61043). That action proposed to require:

- An initial inspection for cracks in the propeller hub in accordance with a dye penetrant inspection procedure.
- Replacement of propellers with cracks that do not meet acceptable limits.
- Rework of propellers with cracks that meet acceptable limits.
- Painting of the propeller hub before installation of the propeller.
- Repetitive inspections of all affected propellers.
- Installation of a steel backing plate and Mylar gasket during installation of the propeller.

These actions must be done in accordance with McCauley Propeller Systems Alert Service Bulletin (ASB) 221C, dated September 7, 1999.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One commenter agrees with the NPRM as written.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Economic Analysis

There are approximately 6,100 propellers of the affected design in the worldwide fleet. The FAA estimates that approximately 3,000 propellers installed on airplanes of U.S. registry will be affected by this AD. The FAA also estimates that it will take approximately 3 work hours per propeller to perform the required actions, and that the average labor rate is $60 per work hour. Required parts would cost approximately $17 per propeller. Based on these figures, the total cost of the AD to U.S. operators is estimated to be $591,000 per year.

Regulatory Analysis

This final rule does not have federalism implications, as defined in Executive Order 13132, because it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the FAA has not consulted with state authorities prior to publication of this final rule.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. Section 39.13 is amended by removing Amendment 39–9973 (62 FR 16064, April 4, 1997) and by adding a new airworthiness directive, Amendment 39–13190, to read as follows:

2003–12–05 McCauley Propeller Systems: Amendment 39–13190. Docket No. 97–ANE–06–AD. Supersedes AD 97–06–16, Amendment 39–9973.

Applicability: This airworthiness directive (AD) is applicable to McCauley Propeller Systems 1A103/TCM series propellers with numeric serial numbers 770001 through 777390; and propellers with alphanumeric serial numbers BC001 up to, but not including KC001. These propellers are installed on but not limited to Cessna 152, Cessna A152, Reims F152, and Reims FA152 series airplanes. All alphanumeric serial number propellers beginning with the letters ''B'' through ''J'' are affected by this AD.

Note 1: This AD applies to each propeller identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For propellers that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Compliance with this AD is required as indicated below, unless already done.

To prevent propeller separation due to hub fatigue cracking, which can result in loss of control of the airplane, do the following:

Inspection and Rework Requirements

(a) Inspect propellers, rework or replace with a serviceable propeller, as necessary, and install in accordance with Sections II, III, IV, and V of McCauley Propeller Systems Alert Service Bulletin (ASB) No. 221C, dated September 7, 1999, as follows:

(1) For propellers with 3,000 or more hours time-in-service (TIS), or unknown TIS, on the effective date of this AD, as follows:

(i) If not already done, perform an initial dye penetrant inspection in accordance with Section II of the ASB before further flight.

(ii) Thereafter, perform repetitive dye penetrant inspections in accordance with Section IV of the ASB at intervals not to exceed 800 hours TIS, or 12 calendar months since last dye penetrant inspection, whichever occurs first.

(iii) If cracks are discovered that are not within the rework limits described in Section III of the ASB, before further flight remove the propeller from service and replace with a serviceable propeller.

(iv) If cracks are discovered that are within the rework limits described in Section III of the ASB, before further flight rework the propeller in accordance with Section III of the ASB, and resume inspecting repetitively in accordance with paragraph (a)(1)(ii) of this AD.

(2) For propellers with less than 3,000 hours TIS on the effective date of this AD, upon accumulating 3,000 hours TIS perform the steps required by paragraph (a)(1)(i) through (a)(1)(iv) of this AD.

(b) Paint camber side of the propeller in accordance with Section II or Section III of the ASB.

(c) Install propeller in accordance with Section V of the ASB.

Alternative Methods of Compliance

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Chicago Aircraft Certification Office (CHIACO). Operators must submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, CHIACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the CHIACO.

Special Flight Permits

(e) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be done.

Documents That Have Been Incorporated by Reference

(f) The inspections, rework and replacement must be done in accordance with McCauley Propeller Systems Alert Service Bulletin (ASB) No. 221C, dated September 7, 1999. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from McCauley Propeller Systems, 3535 McCauley Drive, PO Drawer 5053, Vandalia, OH 45377–5053; telephone: 937–890–5246; fax: 937–890–6001. Copies may be inspected at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(g) This amendment becomes effective on July 17, 2003.

Issued in Burlington, Massachusetts, on June 4, 2003.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 03–14675 Filed 6–11–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–88–AD; Amendment 39–13189; AD 2003–12–04]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–135 and –145 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain EMBRAER Model EMB–135 and –145 series airplanes, that requires replacing the four Gamah clamp/sleeve joints on an engine bleed air duct with new threaded coupling assemblies. For certain airplanes, this AD also requires replacing the two supports for the engine bleed air duct with two new supports. The actions specified by this AD are intended to prevent hot air leaks from the bleed air duct due to disconnection of the duct joint, which could result in heat damage to components near the duct, and consequent increased risk of fire in the rear baggage compartment. This action is intended to address the identified unsafe condition.

DATES: Effective July 17, 2003. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 17, 2003.

ADDRESSES: The service information referenced in this AD may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), PO Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2125; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain EMBRAER Model EMB–135 and –145 series airplanes was published in the **Federal Register** on January 30, 2003 (68 FR 4725). That action proposed to require replacing the four Gamah clamp/sleeve joints on an engine bleed air duct with new threaded coupling assemblies. For certain airplanes, that action also proposed to require replacing the two supports for the engine bleed air duct with two new supports.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Support for the Proposed AD

One commenter has no objections to the proposed AD.

Requests To Cite Recent Service Bulletin Versions

The proposed AD cited EMBRAER Service Bulletin 145–36–0024, dated May 31, 2001, as the appropriate source of service information for the proposed requirements. Several commenters request that the FAA revise the proposed AD to reflect the most current revision levels of the service bulletin revisions. (Change 01 of the service bulletin was issued August 7, 2002, and Change 02 was issued December 13, 2002.) One commenter requests that the proposed AD be revised to also allow future revisions of the service bulletin for compliance with the AD to avoid the need for requests and approvals of alternative methods of compliance.

The FAA partially agrees with the requests. Because the actions in both revisions are essentially the same as those in the original service bulletin, paragraph (a) in this final rule has been revised to cite Change 02 and to provide credit for work accomplished in accordance with the original or Change 01 of the service bulletin. However, to use a later revision of the cited service bulletin, affected operators must request approval of an alternative method of compliance under the provisions of paragraph (c) of this final rule. In an AD, use of the phrase ''or later FAA-approved revisions'' in reference to a specific service bulletin violates Office of the Federal Register regulations for approving materials that are incorporated by reference.

Request To Revise Applicability of Proposed AD

One commenter notes that in Change 02 of the service bulletin the effectivity was revised. Because the applicability of the proposed AD excluded certain airplanes listed in the original version of the service bulletin, the commenter requests that the applicability of the proposed AD be revised to refer to Change 02 of the service bulletin.

The FAA agrees. Certain airplanes were removed from the effectivity of the revised service bulletin. Therefore, the applicability statement of this final rule has been revised accordingly.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described previously. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Changes to 14 CFR Part 39/Effect on the AD

On July 10, 2002, the FAA issued a new version of 14 CFR part 39 (67 FR 47997, July 22, 2002), which governs the FAA's airworthiness directives system. The regulation now includes material that relates to altered products, special flight permits, and alternative methods of compliance. However, for clarity and consistency in this final rule, we have retained the language of the NPRM regarding that material.

Cost Impact

The FAA estimates that 346 airplanes of U.S. registry will be affected by this AD, that it will take approximately 3 work hours per airplane to accomplish the replacement, and that the average labor rate is $60 per work hour. Required parts will cost approximately between $1,978 and $2,007 per airplane. Based on these figures, the cost impact of the AD on U.S. operators of these airplanes is estimated to be between $746,668 and $756,702; or between $2,158 and $2,187 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time

necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. Section 39.13 is amended by adding the following new airworthiness directive:

2003–12–04—EMPRESA BRASILEIRA DE AERONAUTICA S.A. (EMBRAER): Amendment 39–13189. Docket 2002–NM–88–AD.

Applicability: Model EMB–135 and –145 series airplanes, as listed in EMBRAER Service Bulletin 145–36–0024, Change 02, dated December 13, 2002; excluding those airplanes listed in ''In-production effectivity'' in paragraph 1.A., ''Effectivity,'' of the service bulletin; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent hot air leaks from the bleed air duct due to disconnection of the duct joint, which could result in heat damage to components near the duct, and consequent increased risk of fire in the rear baggage compartment, accomplish the following:

Replacement

(a) Within 1,000 flight hours after the effective date of this AD, do the actions specified in paragraphs (a)(1) and (a)(2) of this AD, as applicable, per EMBRAER Service Bulletin 145–36–0024, Change 02, dated December 13, 2002. Accomplishment of those actions in accordance with EMBRAER Service Bulletin 145–36–0024, dated May 31, 2001; or Change 01, dated August 7, 2002; are acceptable for compliance with the requirements of this paragraph.

(1) For all airplanes: Replace the four Gamah clamp/sleeve joints from the bleed line at the baggage compartment between frames 68 and 69 with new threaded coupling assemblies (including re-identifying, cleaning, and lubricating the bleed ducts; and installing protection sleeves).

(2) For airplanes having serial numbers listed in paragraph 3.G. of the Accomplishment Instructions of the service bulletin: Replace the two supports for the engine bleed air duct with two new supports, having part number 145–35923–007.

Parts Installation

(b) As of the effective date of this AD, no person shall install parts listed in paragraphs (b)(1) and (b)(2) of this AD, as applicable.

(1) For all airplanes: Gamah clamp/sleeve joints, from the bleed line at the baggage compartment between frames 68 and 69, having part number G30020CD, G30020TD, G30020C, or G30020T.

(2) For airplanes having serial numbers listed in paragraph 3.G. of the Accomplishment Instructions of EMBRAER Service Bulletin 145–36–0024, Change 02, dated December 13, 2002: Supports for the engine bleed air duct, with part number 145–35923–007.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(e) Unless otherwise specified in this AD, the actions must be done in accordance with EMBRAER Service Bulletin 145–36–0024, Change 02, dated December 13, 2002. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), PO Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in Brazilian airworthiness directive 2001–09–03, dated October 2, 2001.

Effective Date

(f) This amendment becomes effective on July 17, 2003.

Issued in Renton, Washington, on June 4, 2003.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–14524 Filed 6–11–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003–NM–01–AD; Amendment 39–13188; AD 2003–12–03]

RIN 2120–AA64

Airworthiness Directives; Israel Aircraft Industries, Ltd., Model 1124 and 1124A Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD),

applicable to all Israel Aircraft Industries, Ltd., Model 1124 and 1124A series airplanes, that requires revising the airplane flight manual to advise the flightcrew to don oxygen masks as a first and immediate step following a cabin altitude alert. This action is necessary to prevent incapacitation of the flightcrew due to lack of oxygen. This action is intended to address the identified unsafe condition.

DATES: Effective July 17, 2003.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 17, 2003.

ADDRESSES: The service information referenced in this AD may be obtained from Gulfstream Aerospace Corporation, PO Box 2206, Mail Station D25, Savannah, Georgia 31402. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tim Dulin, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2141; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all Israel Aircraft Industries, Ltd., Model 1124 and 1124A series airplanes was published in the **Federal Register** on March 25, 2003 (68 FR 14353). That action proposed to require revising the airplane flight manual to advise the flightcrew to don oxygen masks as a first and immediate step following a cabin altitude alert.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Changes to 14 CFR Part 39/Effect on the AD

On July 10, 2002, the FAA issued a new version of 14 CFR part 39 (67 FR 47997, July 22, 2002), which governs the FAA's airworthiness directives system. The regulation now includes material that relates to altered products, special flight permits, and alternative methods of compliance. However, for clarity and consistency in this final rule, we have retained the language of the NPRM regarding that material.

Cost Impact

The FAA estimates that 198 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $11,880, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. Section 39.13 is amended by adding the following new airworthiness directive:

2003–12–03 ISRAEL AIRCRAFT INDUSTRIES, LTD.: Amendment 39–13188. Docket 2003–NM–01–AD.

Applicability: All Model 1124 and 1124A series airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent incapacitation of the flightcrew due to lack of oxygen, accomplish the following:

Revision to Airplane Flight Manual (AFM)

(a) Within 1 month after the effective date of this AD, revise the Emergency Procedures section of the AFM, as specified in paragraph (a)(1) or (a)(2) of this AD, as applicable.

(1) For Model 1124 series airplanes: Insert Israel Aircraft Industries, Ltd. 1124-Westwind Temporary Revision 3, dated January 16, 2001, into the 1124 Westwind AFM.

(2) For Model 1124A series airplanes: Insert Israel Aircraft Industries, Ltd. 1124A-Westwind Temporary Revision 5, dated January 16, 2001, into the 1124A Westwind AFM.

(b) When the information in the temporary revisions identified in paragraph (a) of this AD has been incorporated into the general revisions of the respective AFM, the general revisions may be incorporated into the AFMs, and these temporary revisions may be removed from the AFM.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA. Operators shall submit their requests through an appropriate FAA Principal Operations Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 1: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR

21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(e) The actions shall be done in accordance with Israel Aircraft Industries, Ltd. 1124-Westwind, Airplane Flight Manual, Temporary Revision 3, dated January 16, 2001; or Israel Aircraft Industries, Ltd. 1124A-Westwind Temporary Revision 5, dated January 16, 2001; as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Gulfstream Aerospace Corporation, PO Box 2206, Mail Station D25, Savannah, Georgia 31402. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 2: The subject of this AD is addressed in Israeli airworthiness directive 21–02–07–01, dated July 22, 2002.

Effective Date

(f) This amendment becomes effective on July 17, 2003.

Issued in Renton, Washington, on June 4, 2003.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–14523 Filed 6–11–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–64–AD; Amendment 39–13186; AD 2003–12–01]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 777 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Boeing Model 777 series airplanes, that requires either a one-time inspection or a review of the airplane maintenance records for both stabilizer trim control modules (STCM) of the trim system of the horizontal stabilizer to determine if STCMs having certain serial numbers are installed; and follow-on corrective actions, if necessary. This amendment also requires eventual replacement of affected STCMs with new or reworked STCMs, which would terminate the follow-on actions. The actions specified by this AD are intended to prevent an uncommanded stabilizer trim due to simultaneous failure of two static seals on one STCM, combined with failure of the automatic shutdown function of the stabilizer trim system. Such failures could result in loss of pitch control and consequent loss of control of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective July 17, 2003. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 17, 2003.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Kenneth J. Fairhurst, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6456; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all Boeing Model 777 series airplanes was published in the **Federal Register** on August 30, 2002 (67 FR 55737). That action proposed to require either a one-time inspection or a review of the airplane maintenance records for both stabilizer trim control modules (STCM) of the trim system of the horizontal stabilizer to determine if STCMs having certain serial numbers (S/N) are installed; and follow-on corrective actions, if necessary. That action also proposed to require eventual replacement of affected STCMs with new or reworked STCMs, which would terminate the follow-on actions.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Requests To Change Paragraphs (b) and (d)

Three commenters ask that certain wording in paragraphs (b) and (d) of the proposed AD be changed. Two commenters ask that the wording be changed to specify allowing installation of STCMs having S/Ns 006 through 556 inclusive, if the part has been reworked and marked with an ''R'' on the nameplate, or if MOOG Aircraft Group Service Bulletin Number 160300–27–124 is marked on the modification plate. The third commenter asks that the information phrase (modified and marked with an ''R'' suffix) be removed from paragraph (b) of the proposed AD, and that ''unless reworked per Part 2 of the Work Instructions of Boeing Service Bulletin 777–27A0047, Revision 2, dated October 11, 2001,'' be added to paragraph (d) of the proposed AD.

The FAA agrees with the commenters because Part 2 of the Work Instructions of the referenced service bulletin specifies procedures for the installation of STCMs that have been reworked and marked with an ''R'' on the nameplate, or that include MOOG Aircraft Group Service Bulletin Number 160300–27–124 on the modification plate. We also agree to remove the information phrase (modified and marked with an ''R'' suffix) from paragraph (b) of the final rule, because the STCM also can be marked with the MOOG service bulletin number. Paragraphs (b) and (d) of this final rule have been changed accordingly.

Requests To Change STCM Serial Numbers

Two commenters state that the range of STCM S/Ns specified in the proposed AD section titled ''Explanation of Relevant Service Information'' is incorrect and should be changed. The first commenter states that the S/Ns in that section should be corrected to specify 006 through 556 inclusive. The second commenter states that Part 2 of the Work Instructions of the referenced service bulletin references S/Ns 006 through 549 inclusive (however, it actually specifies 006 through 556 inclusive). The commenter states that S/Ns 006 through 556 are the correct S/Ns and recommends those numbers be specified throughout the proposed AD to eliminate any confusion. The commenter also states that listing airplanes having S/Ns 2 through 266 and 273, excluding line numbers 256, 258, and 260 through 263 inclusive, as being subject to the actions specified in service bulletin, could be misinterpreted. The commenter recommends that the S/Ns in the applicability of the proposed AD should match the S/Ns (006 through 556 inclusive) listed in MOOG Aircraft Group Service Bulletin Number 160300–27–124.

Although we acknowledge and agree with both commenters' remarks on the section in the preamble of the proposed AD titled ''Explanation of Relevant Service Information,'' that section is not restated in this final rule.

We do not agree with the second commenter's request to add S/Ns to the applicability specified in the final rule. In the section of the proposed AD titled ''Differences Between Service Information and This Proposed AD,'' we stated that we have determined that the proposed AD applies to all Model 777 series airplanes. The reason for this is that the subject STCMs are line-replaceable units and may have been installed on other airplanes not included in the effectivity of the referenced service bulletin. Therefore, no change to the final rule is necessary in this regard.

Request To Reduce Compliance Time for Terminating Action

Two commenters ask that the compliance time for the terminating action specified in paragraph (b) of the proposed AD be reduced from ''Within 2 years after the effective date of this AD'' to ''Within 1 year after the effective date of this AD.'' The first commenter gives no reason for this request. The second commenter, the STCM component manufacturer, states that after inspecting 83 percent of STCMs with S/N 006 through 556, the only requirement on the majority of the components was to stamp either the identification plate or the modification plate for the STCM. The commenter also notes that it has accommodated operators in getting their units inspected and returned within 10 days, and adds that a 2-year compliance period is not warranted.

We do not agree to reduce the compliance time to ''Within 1 year after the effective date of this AD.'' In developing an appropriate compliance time for this terminating action, the FAA considered not only the degree of urgency associated with addressing the subject unsafe condition, but the practical aspect of doing the terminating action within an interval of time that parallels normal scheduled maintenance for the majority of affected operators. In addition, we find that the repetitive tests required by paragraph (a)(1) of the final rule, along with adequate maintenance, will provide an acceptable level of safety until the affected STCMs are replaced. However, operators are always permitted to accomplish the actions earlier than the compliance time specified in an AD. No change to the final rule is necessary in this regard.

Request for Editorial Changes

One commenter suggests that the following editorial changes should be made to the proposed AD:

- Change all references from ''the trim system of the horizontal stabilizer'' to ''the horizontal stabilizer trim system.''
- Discussion section: Add the word ''airplane'' right before ''nose-down,'' add that a single STCM seal failure can result in an uncommanded valve motion in the airplane nose-down direction, and add that two static seals in one STCM combined with failure of the automatic shutdown function could result in loss of pitch control and consequent loss of control of the airplane.
- Add the date to the reference to Revision 2 of the service bulletin in the last paragraph of the Explanation of Relevant Service Information section.

We do not agree that these are substantial changes, nor do they make any essential change to the unsafe condition specified in the proposed AD. Therefore, no change to the final rule is necessary in this regard.

Request for Clarification of Terminating Action

One commenter recommends that the wording specified in paragraph (b) of the proposed AD be clarified. The commenter states that there has been confusion in the past, since the directions have been unclear to several operators and maintenance personnel in the field. The commenter reiterates the wording on page 5, Note 2, of MOOG Aircraft Group Service Bulletin Number 160300–27–124, and recommends adding it to paragraph (b) of the proposed AD to ensure that the STCM units that have already been modified are not removed from service.

We agree with the commenter and have added a new Note 3 to this final rule, for clarification, which specifies that STCM assemblies that have been reworked and marked per Part 2 of the Work Instructions of Boeing Service Bulletin 777–27A0047, Revision 2, dated October 11, 2001, are acceptable for compliance with paragraph (b) of this final rule. Subsequent notes have been renumbered accordingly.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 404 airplanes of the affected design in the worldwide fleet. The FAA estimates that 131 airplanes of U.S. registry will be affected by this AD.

It will take approximately 1 work hour per airplane to accomplish the inspection/review, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspection/review required by this AD on U.S. operators is estimated to be $7,860, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Should an operator be required to do the functional test, it will take approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the functional test on U.S. operators is estimated to be $60 per airplane, per test cycle.

Should an operator be required to do the replacement, it will take approximately 3 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts will be provided by the vendor at no cost to operators. Based on these figures, the cost impact of the replacement on U.S. operators is estimated to be $180 per airplane.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44

FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. Section 39.13 is amended by adding the following new airworthiness directive:

2003–12–01—Boeing: Amendment 39–13186. Docket 2002–NM–64–AD.

Applicability: All Model 777 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent an uncommanded stabilizer trim due to simultaneous failure of two static seals on one stabilizer trim control module (STCM), combined with failure of the automatic shutdown function of the stabilizer trim system, which could result in loss of pitch control and consequent loss of control of the airplane, accomplish the following:

One-Time Inspection/Review of Maintenance Records

(a) Within 30 days after the effective date of this AD: Do either a one-time general visual inspection or a review of the airplane maintenance records of both STCMs of the trim system of the horizontal stabilizer to determine the serial numbers (S/N), per Part 2 of the Work Instructions of Boeing Service Bulletin 777–27A0047, Revision 2, dated October 11, 2001. If any affected S/N (6 through 556 inclusive) is found on either STCM, within 150 flight hours after doing the inspection or review, do the actions specified in either paragraph (a)(1) or (a)(2) of this AD. If no affected serial number is found, no further action is required by this AD.

Note 2: For the purposes of this AD, a general visual inspection is defined as: ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to enhance visual access to all exposed surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

Follow-on Corrective Actions

(1) Do a functional test of the trim system of the horizontal stabilizer per Part 1 of the Work Instructions of the service bulletin.

(i) If a test condition of PASSED is reported per Part 1.A.1. of the service bulletin, or considered serviceable per Part 1.A.5.a. of the service bulletin, repeat the test at intervals not to exceed 150 flight hours until the terminating action required by paragraph (b) of this AD is done.

(ii) If a test condition of FAILED is reported, or if the stabilizer does not move, correct the condition as specified in the Boeing 777 Airplane Maintenance Manual, and repeat the functional test at intervals not to exceed 150 flight hours until the terminating action specified in paragraph (b) of this AD is done. If failure of either STCM is found during the test, before further flight, replace the affected STCM with a new or reworked STCM as required by paragraph (b) of this AD.

(2) Replace any affected STCM with a new or reworked STCM as required by paragraph (b) of this AD.

Terminating Action

(b) Except as provided by paragraphs (a)(1)(ii) and (a)(2) of this AD: Within 2 years after the effective date of this AD, replace any STCM having an affected serial number identified in paragraph (a) of this AD with a new or reworked STCM per Part 2 of the Work Instructions of Boeing Service Bulletin 777–27A0047, Revision 2, dated October 11, 2001. Such replacement ends the repetitive functional tests required by paragraph (a)(1) of this AD.

Note 3: STCM assemblies having an affected serial number, as identified in paragraph (a) of this AD, that have been reworked and marked per Part 2 of the Work Instructions of Boeing Service Bulletin 777–27A0047, Revision 2, dated October 11, 2001, are acceptable for compliance with paragraph (b) of this AD.

Credit for Actions Accomplished Per Previous Revisions of Service Bulletin

(c) Replacement of affected STCMs before the effective date of this AD per Boeing Alert Service Bulletin 777–27A0047, dated September 21, 2000; or Boeing Service Bulletin 777–27A0047, Revision 1, dated November 2, 2000; is considered acceptable for compliance with paragraph (b) of this AD.

Part Installation

(d) As of the effective date of this AD, no person may install on any airplane a STCM having S/N 6 through 556 inclusive, unless reworked and marked per Part 2 of the Work Instructions of Boeing Service Bulletin 777–27A0047, Revision 2, dated October 11, 2001.

Alternative Methods of Compliance

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO). Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

(f) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished, provided there has been no known failure of any STCM during any functional test required by paragraph (a)(1) of this AD.

Incorporation by Reference

(g) Unless provided otherwise in this AD, the actions shall be done in accordance with Boeing Service Bulletin 777–27A0047, Revision 2, dated October 11, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(h) This amendment becomes effective on July 17, 2003.

Issued in Renton, Washington, on June 4, 2003.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–14521 Filed 6–11–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–162–AD; Amendment 39–13187; AD 2003–12–02]

RIN 2120–AA64

Airworthiness Directives; BAE Systems (Operations) Limited Model ATP Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all BAE Systems (Operations) Limited Model ATP airplanes, that requires installing a baulking device for the pintle pin in the nose landing gear (NLG). This action is necessary to prevent failure of the NLG due to an unlocked pintle pin migrating from its support housings, and consequent jamming or collapse of the NLG. This action is intended to address the identified unsafe condition.

DATES: Effective July 17, 2003.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 17, 2003.

ADDRESSES: The service information referenced in this AD may be obtained from British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Todd Thompson, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1175; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all BAE Systems (Operations) Limited Model ATP airplanes was published in the **Federal Register** on March 17, 2003 (68 FR 12614). That action proposed to require installing a baulking device for the pintle pin in the nose landing gear.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Changes to 14 CFR Part 39/Effect on the AD

On July 10, 2002, the FAA issued a new version of 14 CFR part 39 (67 FR 47997, July 22, 2002), which governs the FAA's airworthiness directives system. The regulation now includes material that relates to altered products, special flight permits, and alternative methods of compliance. However, for clarity and consistency in this final rule, we have retained the language of the NPRM regarding that material.

Cost Impact

The FAA estimates that 3 airplanes of U.S. registry will be affected by this AD, that it will take approximately 20 work hours per airplane to accomplish the required installation, and that the average labor rate is $60 per work hour. Required parts will cost approximately $900 per airplane. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $6,300, or $2,100 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. Section 39.13 is amended by adding the following new airworthiness directive:

2003–12–02 BAE Systems (Operations) Limited (Formerly British Aerospace Regional Aircraft): Amendment 39–13187. Docket 2002–NM–162–AD.

Applicability: All Model ATP airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the installation, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the nose landing gear (NLG) due to an unlocked pintle pin migrating from its support housings, and consequent jamming or collapse of the NLG, accomplish the following:

Installation

(a) Within 3 years after the effective date of this AD, install a baulking device for the pintle pin in the NLG by accomplishing the actions specified in the Accomplishment Instructions of BAE Systems (Operations) Limited Service Bulletin ATP–32–105, dated April 9, 2002. The actions must be done per the service bulletin.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(d) The actions shall be done in accordance with BAE Systems (Operations) Limited Service Bulletin ATP–32–105, dated April 9, 2002. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in British airworthiness directive 004–04–2002.

Effective Date

(e) This amendment becomes effective on July 17, 2003.

Issued in Renton, Washington, on June 4, 2003.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–14522 Filed 6–11–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE INTERIOR

Indian Arts and Crafts Board

25 CFR Part 309

RIN 1076–AE16

Protection of Products of Indian Art and Craftsmanship

AGENCY: Indian Arts and Crafts Board (IACB), Department of the Interior.

ACTION: Final rule.

SUMMARY: This rule implements the Indian Arts and Crafts Enforcement Act of 2000, an amendment to the Indian Arts and Crafts Act of 1990. The rule provides guidance to persons who produce, market, or purchase arts and crafts marketed as Indian products. The rule clarifies the regulatory definition of ''Indian product,'' as defined under the Indian Arts and Crafts Act of 1990, by including specific examples of ''Indian product,'' as well as examples of what is not an ''Indian product.''

EFFECTIVE DATE: September 10, 2003.

FOR FURTHER INFORMATION CONTACT: Meridith Z. Stanton, Director, Indian Arts and Crafts Board, Room 4004–MIB, 1849 C Street, NW., Washington, DC 20240, telephone 202–208–3773 (not a toll-free call), fax 202–208–5196, or e-mail *iacb@os.doi.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Indian Arts and Crafts Board (IACB) was created by Congress pursuant to the Act of August 27, 1935 (49 Stat. 891; 25 U.S.C. 305 *et seq.*; 18 U.S.C. 1158–59) (''1935 Act''). The IACB is responsible for carrying out the Indian Arts and Crafts Act of 1990, promoting the development of American Indian and Alaska Native arts and crafts, improving the economic status of members of federally recognized Tribes, and helping to establish and expand marketing opportunities for arts and crafts produced by American Indians and Alaska Natives.

The Indian Arts and Crafts Act of 1990, Public Law 101–644, 104 Stat. 4662 (hereinafter the ''1990 Act'') is essentially a truth-in-marketing law designed to prevent, through both civil and criminal sanctions, marketing of products in a manner that falsely suggests such products are produced by Indians when the products are not, in fact, made by an Indian as defined by the 1990 Act. As used herein, ''marketing'' occurs when a person offers or displays for sale or sells a good. Under section 104(a) of the 1990 Act (18 U.S.C. 1159(c)(2)), ''the terms 'Indian product' and 'product of a particular Indian tribe or Indian arts and crafts organization' have the meaning given such term in regulations which may be promulgated by the Secretary of the Interior.''

Under the Secretary's implementing regulations for the 1990 Act, at 25 CFR part 309, prior to these amendments, the term ''Indian product'' was defined as:

''(1) *In general.* ''Indian product'' means any art or craft product made by an Indian.

''(2) *Illustrations.* The term Indian product includes, but is not limited to:

''(i) Art works that are in a traditional or non-traditional Indian style or medium;

''(ii) Crafts that are in a traditional or non-traditional Indian style or medium;

''(iii) Handcrafts, *i.e.* objects created with the help of only such devices as allow the manual skill of the maker to condition the shape and design of each individual product.

''(3) *Exclusion for products made before 1935.* The provisions of this part shall not apply to any art or craft products made before 1935.''

This definition reflects the IACB's determination that ''Indian product'' under the 1990 Act applies to Indian arts and crafts, and not all products generally. This determination is consistent with the IACB's organic legislation enacted in 1935, the IACB's primary mission as established by Congress, and the Congressional intent of the 1990 Act. The 1935 cut-off date for products regulated by the 1990 Act is in keeping with the Congressional intent of the 1990 Act and the legislated mission of the IACB—economic growth through the development and promotion of contemporary Indian arts and crafts.

The ''Indian product'' definition under the 1990 Act's implementing regulations, at 25 CFR part 309, focused on the nature and Indian origin of products covered by the 1990 Act, and did not provide specific arts and crafts examples. The Indian Arts and Crafts Enforcement Act of 2000, (hereinafter the ''2000 Act''), an amendment to the 1990 Act, was enacted on November 9, 2000. Under this amendment, Congress sought to strengthen the cause of action for misrepresentation of Indian arts and crafts. Section 2 of the 2000 Act directed the IACB to ''promulgate regulations to include in the definition of the term 'Indian product' specific examples of such product to provide guidance to Indian artisans as well as to purveyors and consumers of Indian arts and crafts, as defined under this Act.''

This final rule carries out the 2000 Act by clarifying the definition of ''Indian product.'' It also provides specific examples of items that may be marketed as Indian products and those that may not, thereby informing the public as to when an individual may be subject to civil or criminal penalties for falsely marketing a good as an ''Indian product.''

Public Participation

Prior to drafting regulations for the 2000 Act, in early January, 2001, the IACB sent out individual letters to the Tribal leaders of all federally recognized Tribes informing them of the 2000 Act and providing them with copies of the legislation. The letters invited the Tribal leaders to designate a member of their staff or Tribal member from their arts and crafts community with whom the IACB could discuss their Tribe's interest in specific language for consideration in the further clarification of ''Indian product.'' This Tribal involvement was intended to ensure that the amended definition properly encompasses Indian art and craft products that should be protected by the 1990 Act.

Following written and telephone communications and subsequent teleconference consultations with designated representatives from a broad range of interested Tribes, the IACB published the proposed rulemaking for the 2000 Act on May 21, 2001. 66 Fed. Reg. 27915–27920. In addition to publication, several thousand copies of the proposed rulemaking were distributed to interested parties, including every federally recognized Tribe, members of the Indian arts and crafts industry, key offices within the Department of Justice, including U.S. Attorneys and the Federal Bureau of Investigation, State Governors, State Attorneys General, and State Arts Councils.

The IACB received 25 public comments on the proposed rulemaking, and each was carefully reviewed, analyzed, and considered. These comments are grouped in the following summary.

Summary and Analysis of Public Comments

A broad range of Tribal, federal, State, and Indian arts and crafts industry comments were received in response to the proposed rulemaking for the 2000 Act. The respondents provided a variety of comments, including concern for the protection of Indian artists and artisans' economic livelihood, suggestions for changes to the proposed product categories, product items, and descriptions, as well as requests to further clarify that the labor component of the Indian art or craft product must be entirely Indian.

Overall Comments

Definition of ''Indian''

One respondent requested that a working definition of ''Indian'' be developed to assist in the definition of ''Indian product,'' while another respondent questioned whether State-recognized Tribes met the definition of ''Indian.'' One comment proposed that, under the ''Background'' section's definition of ''Indian product,'' the terms ''American Indian or Alaska Native'' be substituted for ''Indian.'' Another respondent requested that the definition of Indian be expanded to permit people of Indian descent, yet who are not enrolled in State or federally recognized Tribes, to sell their work as Indian art.

The final rule has not adopted these comments. The term ''Indian'' and the interrelated term ''Indian Tribe'' are defined by Congress by statute in the 1990 Act and may not be changed by regulation. As defined by the 1990 Act, however, the terms ''Indian'' and ''Indian Tribe'' already include, for purposes of sections 104, 105, and 107 of the 1990 Act, members of State-recognized Tribes and Alaska Natives, as well as members of federally recognized Tribes.

Sections 104 and 105 of the 1990 Act define ''Indian'' and ''Indian Tribe'' as follows:

> ''The term 'Indian' means any individual who is a member of an Indian tribe, or for the purposes of this section is certified as an Indian artisan by an Indian tribe;''
>
> ''The term 'Indian tribe' means—
>
> ''Any Indian tribe, band, nation, Alaska Native village, or other organized group or community which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; or
>
> ''Any Indian group that has been formally recognized as an Indian tribe by a State legislature or by a State commission or similar organization legislatively vested with State tribal recognition authority.''

In response to the comment regarding the sale of art by individuals who are not members of federally or State-recognized Tribes, but are of Indian descent, it should be noted that such individuals may market their goods as an Indian, provided they are certified as an ''Indian artisan'' by an Indian Tribe. Certification is at the option of the Tribe. Certification by a Tribe, under 25 CFR 309.4, requires that the individual be of the Indian lineage of one or more members of that Tribe. As a result, it is not necessary to adopt this comment. Furthermore, neither the 1990 Act nor the 2000 Act prohibit any statements about a person's Indian heritage in the marketing of his or her art or craft work that are truthful and that do not falsely suggest the individual is a member of an Indian Tribe, as defined by the 1990 Act.

Materials Used To Make Indian Arts and Crafts

One respondent expressed concerns regarding the use and representation of stabilized turquoise in Indian jewelry, as well as the need for information regarding the 1990 Act to reach markets and businesses violating the 1990 Act. Issues regarding the use and representation of stabilized turquoise in Indian jewelry are beyond the scope of the 1990 Act, which focuses on Indian labor, not on art and craft base materials. While the IACB welcomes any suggestions to improve its efforts to educate the industry and public about the 1990 Act, as well as any information regarding potential violations of the 1990 Act, these comments have not been adopted in the final rule as they do not address the 2000 Act's statutory mandate to further clarify the definition of ''Indian product.''

One respondent recommended that the Lanham Act language, 15 U.S.C. 1125(a), which addresses strict liability for misleading words and markings, be adopted to further clarify what kind of conduct the IACB will interpret as ''falsely suggests'' that products are Indian for purposes of civil action. Another comment requested that the statutory language ''In a manner that 'falsely suggests' it is Indian produced,'' 18 U.S.C. 1159(a), be changed to ''In a manner that 'falsely states' it is Indian produced,'' to narrow the gap in the proof of criminal intent. Another respondent recommended that the term ''falsely suggests'' be used consistently throughout the regulations, rather than the word ''misrepresented'' to avoid confusion.

The final rule has not incorporated the first comment recommending adoption of the Lanham Act's strict liability language to clarify conduct that ''falsely suggests'' an art or craft is an Indian product or the second comment regarding a change in statutory language. Both of these recommendations are beyond the scope of IACB's Congressional mandate under the 2000 Act to promulgate regulations to further clarify the definition of Indian product. However, the third

recommendation regarding consistent use of ''falsely suggests'' has been adopted to mirror the use of these terms in the 1990 Act.

Section-by-Section Comments

Section 309.2 What Are the Key Definitions for Purposes of the Act?

Definition of ''Indian Product,'' § 309.2(d)

In light of comments to §§ 309.6 and 309.7, the final rule contains additional clarification that ''made by an Indian'' includes products in which the Indian has provided the labor necessary to implement an artistic design through a substantial transformation of materials to produce the art or craft work. The labor component of the product must be entirely Indian and is what makes the Indian art or craft object an ''Indian product.''

One comment requested that the requirement in § 309.7(h) note 2—that the labor component of an ''Indian product'' must be entirely Indian—be stated boldly in a prominent location at the beginning of the final rule to emphasize its paramount importance. This comment has been adopted and incorporated in the key definitions of Indian product under § 309.2(d).

Several respondents requested that a range of items, such as food and agricultural products, music, poetry, and stories, be included as examples of Indian products. Two of these respondents also requested that ''Indian product'' be defined in the broadest way possible. One respondent stated that ''Indian product'' includes any ''typically Indian product'' designed and produced by Indians. One respondent requested that ''Indian product'' be defined as any product made by an Indian, while another respondent requested that the definition of ''Indian product'' be narrowed.

The final rule has not adopted these comments. As explained in the ''Section-by-Section Comments—Definition of Indian Product, § 309.2'' of the preamble to the 1990 Act's regulations, the ''Supplementary Information; Background'' for the 2000 Act's Notice of Proposed Rulemaking, and the Background section of this document, the IACB has determined that the 1990 and 2000 Acts apply to Indian arts and crafts and not all products generally. This determination is based upon the IACB's 1935 organic legislation, IACB's primary mission as established by Congress, and the language and Congressional intent of the 1990 and 2000 Acts.

One respondent requested that the final rule add sacred and traditional Indian cultural symbols, patterns, and designs used in traditional Indian weavings under the definition of ''Indian product'' to protect against imported products that appropriate Indian cultural symbols.

Under the 1990 Act, the IACB oversees the receipt, analysis, and referral of complaints of art and craft work offered or displayed for sale or sold within the United States in a manner that falsely suggests it is Indian produced, an Indian product, or the product of a particular Indian or Indian Tribe, or Indian arts and crafts organization resident within the United States. While the IACB acknowledges the significant concerns cited by the respondent, the protection of Indian cultural symbols, patterns, and designs, and related cultural property of an Indian Tribe, clan, or moiety is a matter of cultural patrimony and beyond the scope of the 1990 Act, unless misrepresentation is involved. Therefore, the final rule has not incorporated this request. Of course, if the art or craft work depicting the Indian cultural symbols is marketed in the United States in a manner that falsely suggests that it is the product of a particular Tribe or as Indian made, then a violation of the 1990 Act would occur.

Illustration of ''Handcrafts,'' § 309.2(d)(1)(iii)

Two respondents requested that, under § 309.2(d)(1)(iii), the terms ''Indian handmade arts and crafts'' be substituted for 'handcrafts' made by an Indian.'' This request has not been adopted as it does not improve the understanding of § 309.2(d)(1).

Exclusions From Definition of Indian Product, § 309.2(d)(2)(iii)

Two comments expressed concern that, under § 309.2(d)(2)(iii), bronze castings reproduced from an original Indian stone sculpture in a commercial foundry by non-Indians would be prohibited from being sold as an Indian product. The respondents requested clarification regarding limited editions of original Indian art works. The final rule has not incorporated these comments. Under the regulations, a product in the style of Indian arts and crafts that is designed by an Indian but produced by non-Indian labor is not an Indian product under the 1990 Act. The original stone sculpture is an Indian product. The limited edition bronze casting by non-Indian labor is a non-Indian reproduction of an original Indian stone sculpture.

Exclusions, § 309.2(d)(2)(v)

One respondent requested clarification regarding the use of the term ''without a 'substantial handcraft element' provided by Indian labor'' under § 309.2(d)(2)(v), to describe a product in the style of Indian arts and crafts that does not meet the definition of Indian product. The respondent viewed this definition in conflict with the definition of 'handcrafts' made by an Indian'' under § 309.2(d)(1)(iii), ''objects created with the help of such devices as allow the manual skill * * *'' For clarification, the term ''substantial transformation'' has been substituted for ''substantial handcraft element'' under § 309.2(d)(2)(v).

Exclusions, § 309.2(d)(2)(vi)

One comment requested that § 309.2(d)(2)(vi), excluding industrial products from the definition of Indian products, be removed from the final rule. This request has not been adopted because it is inconsistent with the scope and intent of the 1990 Act.

Exclusions, § 309.2(d)(2)(vii)

One respondent requested that § 309.2(d)(2)(vii) regarding assembly line production of a product in the style of Indian arts and crafts be further clarified. It was suggested the example provided as ''not an Indian product,'' a pipe in the style of an Indian product, be changed to another example that focused more on the requirement of entirely Indian labor for Indian products. While the previous example remains valid, the final rule has adopted the respondent's recommended language to eliminate potential confusion.

Section 309.6 When Does a Commercial Product Become an Indian Product?

One commenter requested that beadwork on commercially available items, such as medicine bottles and combs, not be considered authentic ''Indian products.'' The subject of transforming commercial products into Indian art or craft products is addressed in §§ 309.6, 309.7, and 309.14. By adding sufficient art and craft work to a commercial product through Indian labor, the qualities and appearance of the commercial product can be substantially transformed into an art or craft work. Therefore, this request has not been adopted in the final rule.

One respondent expressed concern that the provisions provided under § 309.6 exhibited a lack of support for non-traditional art forms. To the contrary, the proposed rulemaking and the final rule state, in § 302.2(d)(1)(ii),

that the key definitions of Indian product include ''crafts made by an Indian that are in a traditional or non-traditional style or medium.'' Furthermore, § 309.22 clarifies that the definition of Indian product includes ''art forms to be developed in the future.'' The final rule therefore has not incorporated this comment regarding non-traditional art forms.

One respondent requested clarification about when a commercial product becomes an Indian product. For example, if an Indian artisan were to use industrial steel, bottles, and cans in a sculpture, at what point does it change from an industrial or commercial product into an Indian product? The final rule clarifies that once commercial items, such as cups and bottles, kitchen utensils, or marble components, are substantially transformed entirely by Indian labor into an art or craft object, such as a sculpture, the result is an Indian product.

One comment requested clarification between the definition of commercial and industrial products. This comment has been adopted in part by adding explanatory language to § 309.6 of the final rule. The rule now states that commercial products are goods designed for profit and mass distribution that lend themselves to Indian embellishment, for example clothing and accessories. For purposes of the final rule, industrial products, on the other hand, are goods that have an exclusively functional purpose, do not serve as a traditional artistic medium, and that do not lend themselves to Indian embellishment, such as appliances and vehicles. An industrial product may not become an Indian product. This comment has been adopted in part by adding descriptive language to § 309.6 of the final rule.

Section 309.7 How Should a Seller Disclose the Nature and Degree of Indian Labor When Selling, Offering, or Displaying Art or Craft Work for Sale?

A comment requested that the terms ''Indian style,'' ''Indian design,'' ''Indian inspired,'' and ''Indian assembled'' be removed from § 309.7 and throughout the final rule to avoid confusion among consumers and to avoid substantial interpretive problems. The final rule makes various revisions to § 309.7(d), which incorporate the comments in part.

Section 309.7(a) Indian Production of an Indian Product

Two respondents expressed concern that § 309.7 may lead people to believe that in order for an Indian product to be marketed as such, it must be conceived and designed by an Indian. We believe, however, that § 309.6 makes it clear that when an item is ''substantially transformed'' by Indian artistic or craft work labor, it becomes an Indian product. Design or conception by an Indian alone is insufficient to constitute substantial transformation. The Indian labor must substantially transform the materials, such as beads, precious metals, and other base materials, into an Indian product. Thus, even commercial products featuring Indian arts and crafts embellishments done by Indian labor that sufficiently transform the nature, qualities, and appearance of the original commercial item are considered ''Indian products.'' The final rule has not incorporated the comment.

Section 309.7(d) Indian Designed and Non-Indian Made Products

One commenter requested that an Indian designed and non-Indian made product, and therefore not an Indian product, be sold as ''not an Indian product,'' without the option to market it as ''Indian designed.'' This comment has not been adopted in the final rule because dictating how products that are not Indian products may be marketed is outside the scope of this rule. Also, we will retain the suggestion to market items as ''Indian designed'' because we believe that providing suggested alternatives to marketing products as Indian products will enhance compliance with the rule.

Section 309.7(e) A Product Assembled From a Substantial Amount of Non-Indian Made Materials

Several respondents requested clarification regarding guidelines for characterizing art and craft work when those products were made from a substantial amount of non-Indian made products, such as beads, gold, silver, and purchased basketry materials. Although §§ 309.11 through 309.22 address a vast range of ''Indian products,'' including beadwork, gold and silver jewelry and crafts, basketry, and textile products, the respondents point out that § 309.7(e) could create confusion.

A wide variety of Indian arts and crafts products may be made from non-Indian made materials, such as beads, precious metals, and other base materials, provided that Indian artistic creation and labor—as opposed to assembly line work—substantially transforms these materials into Indian products. For example, a piece of silver artistically designed, shaped, and finely engraved by an Indian becomes a handcrafted Indian bracelet. By contrast, the type of products under § 309.7(e) are essentially those products that are simply assembled from ''fit together parts'' kits and related products. For example, assembled jewelry that requires non-artistic Indian labor, such as stringing overseas mass-produced fetishes or heshi and attaching a clasp, is not an Indian product. Conversely, for example, Indian artistically-crafted beadwork products, regardless of where the beads were manufactured and the amount of non-Indian materials, such as beaded medallion necklaces, pouches, and hair clips, as well as gold engraved bracelets, and silver and turquoise crafted rings, do not fall under the ''assembled'' category of § 309.7(e) and are Indian products.

The respondent's requests for clarification have been adopted in the final rule. Section 309.7(e) has been revised to read ''A product, such as jewelry, made with non-artistic Indian labor, from assembled or 'fit together parts,' does not meet the definition of Indian product.''

One comment recommended that § 309.7(e) note 1 eliminate the term ''Indian assembled'' as a marketing guideline and replace it with the phrase ''not an Indian product.'' The comment has not been adopted in the final rule. The product addressed in § 309.7(e) note 1 is not an Indian product under the 1990 Act, but it may be marketed as ''Indian assembled'' without violating the 1990 Act. Thus, rather than attempting to dictate affirmative marketing representations for the manner in which such a product should be marketed, the final rule only provides an example of how it may be marketed. (The 1990 Act only prohibits falsely suggesting that a product is an Indian product. It does not affect the marketing of non-Indian products.)

One respondent requested that ''kachina'' be removed, under § 309.7(e) note 1, and another product be substituted as an example of kit assembled products. The intent of this request was to prevent the generic use of a religious and culturally sensitive item in the rulemaking. This request has been adopted by removing the kachina example and inserting ''dream catcher'' under § 309.7(e) note 1.

Section 309.7(f) A Product Assembled by Non-Indian Labor From Kits

In keeping with the request for further clarification to § 309.7(f), the guidelines state that a product assembled by non-Indian labor from a kit, that is made in the style of an Indian product, is not an Indian product.

Section 309.8 Identifying Authentic Indian Products

A respondent asked that an individual's enrollment number be incorporated in the recommended method of identifying authentic Indian products, under § 309.8. The final rule has incorporated this recommendation. The addition of an Indian artist's or artisan's enrollment number under the recommended methods of identifying authentic Indian products, along with the name of the artist or artisan and the name of his or her Tribe, will assist consumers in identifying authentic Indian products, contribute to consumer confidence, and help raise consumer appreciation of authentic Indian arts and crafts.

Sections 309.8 and 309.9 Marketing Products by ''Certified Indian Artisans''

A respondent requested that § 309.8, regarding identifying authentic Indian products, include reference to how a ''certified Indian artisan'' should identify his or her art work. The respondent also requested that § 309.9, regarding how non-Indians can market products in the style of Indian arts and crafts, take the ''certified Indian artisan'' issue into consideration. The request to address how a ''certified Indian artisan'' should identify his or her art work has been adopted in the text of § 309.8. The request to include the ''certified Indian artisan'' issue under § 309.9, regarding non-Indian products, has not been adopted. The 1990 Act's definition of ''Indian,'' under Sections 104 and 105, includes any individual certified as an Indian artisan by an Indian Tribe. As the art and craft work of certified Indian artisans meet the definition of Indian product, it would be inappropriate to include their art and craft work under non-Indian products.

Section 309.9 Is it Illegal for a Non-Indian to Make and Sell Indian Style Art and Craft Products?

Two respondents recommended that the heading of § 309.9 be changed to the format of the related sections. The final rule has adopted one of the two recommendations. The former heading for § 309.9, ''Is it illegal . . .,'' is replaced with the current heading ''When can non-Indians make and sell products in the style of Indian art and craft products?''

One respondent commented that, under § 309.9, products in the style of Indian art and craft products that are not Indian made should be offered for sale as ''non-Indian made'' only, and not ''Indian inspired.'' The request has been adopted in part. In response to this comment, and a previously addressed comment, ''Indian inspired'' has been struck from the last sentence of § 309.9, as well as the entire text of the final rule, to reduce or alleviate consumer confusion.

Section 309.11 What Are Examples of Jewelry That Are Indian Products?

One respondent suggested adding seashells and abalone as descriptive jewelry examples under § 309.11. These two examples have not been adopted, as shell jewelry is listed under Indian jewelry products.

Section 309.12 What Are Examples of Basketry That Are Indian Products?

One respondent suggested a variety of descriptive terms be added to this section on basketry, including cedar capes and dresses. A number of the recommended descriptive terms have been adopted in § 309.12 of the final rule.

Sections 309.12 and 309.13 What Are Examples of Basketry, Weaving, and Textile Indian Products?

One comment requested that all references to hemp be removed from the final rule, which occurred under §§ 309.12 and 309.13. In line with federal law (the Controlled Substances Act, 21 U.S.C. 801 *et seq.*) the final rule has adopted this request by substituting fiber for hemp under §§ 309.12 and 309.13.

Section 309.15 What Are Examples of Apparel That Are Indian Products?

One respondent requested that wording be added under § 309.15 to include the specific reference to apparel items made from both traditional materials and designs and from modern textiles. The final rules have not adopted this comment. The key definitions of Indian product, under § 309.2, describe art works and crafts as ''made by an Indian that are in a traditional or non-traditional style or medium.'' Therefore, it is understood that traditional and modern apparel, as well as other traditional and modern art and craft works, are included in the range of Indian products provided as examples.

Section 309.17 What Are Examples of Woodwork That Are Indian Products?

One comment requested additional descriptive terms be incorporated under § 309.17, including red and yellow cedar seagoing canoe paddles and broad leaf maple ladles, spoons, and soup bowls. This request has been adopted in part.

One comment requested that traditional ceremonial Indian structures be included under § 309.17. The final rule has not adopted this request. While what constitutes an Indian art or craft product is potentially very broad, the range of examples of woodwork products currently listed under § 309.17 is sufficient.

Section 309.21 What Are Examples of Dolls and Toys That Are Indian Products?

A respondent requested that kachina dolls be removed from § 309.21, listing examples of dolls, and moved to § 309.20, listing examples of carvings. This request has been adopted.

Section 309.22 What Are Examples of Painting and Other Fine Art Forms That Are Indian Products?

One respondent requested a new section, § 309.23, be added to the final rule to give ''art forms to be developed in the future'' its own section, rather than included in § 309.22. The request has not been adopted, as a separate category for work yet to be defined is unwarranted. The current categories of art and craft work are sufficiently broad to reflect evolution of art forms.

Section 309.23 Does This Part Apply to Products Made Before 1935?

On comment suggested adding a new § 309.23 for other Indian products, such as pouches, animal fetishes, and pipes, and moving § 309.23 on pre-1935 products to § 309.24. The final rule has not adopted this suggestion as the other Indian products are sufficiently covered in §§ 309.11–309.22.

Drafting Information

This final rule was prepared by Meridith Z. Stanton (Director, Indian Arts and Crafts Board).

Compliance With Other Laws and Directives

1. Regulatory Planning and Review (Executive Order 12866)

This document is not a significant rule and is not subject to review by the Office of Management and Budget under Executive Order 12866.

(1) This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health, or safety, or State, local, or tribal governments or communities. The rule is simply a Congressionally mandated further clarification of an existing regulatory definition of ''Indian product.''

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. The rule, the further clarification of an existing regulatory definition of ''Indian product,'' does not involve another agency.

(3) This rule does not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients. This rule does not involve any budgetary or entitlements issues.

(4) This rule does not raise novel legal or policy issues. Again, it is simply the further clarification of an existing regulatory definition of ''Indian product.''

2. Regulatory Flexibility Act

The Department of the Interior certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) A number of individuals, small businesses, and tribal governments may be affected in some way. As this rule simply clarifies an existing regulatory definition, however, it will not have a significant economic effect on any of these small entities, either through increasing compliance costs or otherwise.

3. Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

(a) Does not have an annual effect on the economy of $100 million or more. The annual effect is insignificant.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. Clarification of the term ''Indian product'' and guidance on how to represent Indian products in the marketplace will not cause any significant increase in the costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

(c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of the U.S.-based enterprises to compete with foreign-based enterprises. Through the clarification of the term ''Indian product,'' the ability of U.S.-based enterprises to compete with foreign-based enterprises will not be significantly affected. In fact, it should assist U.S. Indian arts and crafts producers to compete with counterfeit Indian arts and crafts produced overseas.

4. Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. It simply clarifies an existing regulatory definition of ''Indian product.'' A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

5. Takings (Executive Order 12630)

In accordance with Executive Order 12630, the rule does not have significant takings implications. This rule does not involve government action or interference with Constitutionally protected rights.

6. Federalism (Executive Order 12612)

In accordance with Executive Order 12612, the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. This rule does not affect the relationship between State and federal governments. A Federalism Assessment is not required.

7. Civil Justice Reform (Executive Order 12988)

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

8. Paperwork Reduction Act

This regulation does not require an information collection from 10 or more parties and a submission under the Paperwork Reduction Act is not required. An OMB form 83–I is not required.

9. National Environmental Policy Act

This rule does not constitute a major Federal action significantly affecting the quality of the human environment.

List of Subjects in 25 CFR 309

Indians—arts and crafts, Penalities, Trademarks.

■ For the reasons set out in the preamble, part 309 of 25 CFR Chapter II is amended as follows:

PART 309—PROTECTION OF INDIAN ARTS AND CRAFTS PRODUCTS

■ 1. The authority citation for part 309 continues to read as follows:

Authority: 18 U.S.C. 1159; 25 U.S.C. 305 *et seq.*

■ 2. In § 309.2, paragraph (d) is revised to read as follows:

§ 309.2 What are the key definitions for purposes of the Act?

* * * * *

(d) *Indian product*—(1) *In general.* The term ''Indian product'' means any art or craft product made by an Indian. For this purpose, the term ''made by an Indian'' means that an Indian has provided the artistic or craft work labor necessary to implement an artistic design through a substantial transformation of materials to produce the art or craft work. This may include more than one Indian working together. The labor component of the product, however, must be entirely Indian for the Indian art or craft object to be an ''Indian product.''

(2) *Illustrations.* The term ''Indian product'' includes, but is not limited to:

(i) Art made by an Indian that is in a traditional or non-traditional style or medium;

(ii) Craft work made by an Indian that is in a traditional or non-traditional style or medium;

(iii) Handcraft made by an Indian, *i.e.* an object created with the help of only such devices as allow the manual skill of the maker to condition the shape and design of each individual product.

(3) *Examples of non-qualifying products.* An ''Indian product'' under the Act does not include any of the following, for example:

(i) A product in the style of an Indian art or craft product made by non-Indian labor;

(ii) A product in the style of an Indian art or craft product that is designed by an Indian but produced by non-Indian labor;

(iii) A product in the style of an Indian art or craft product that is assembled from a kit;

(iv) A product in the style of an Indian art or craft product originating from a commercial product, without substantial transformation provided by Indian artistic or craft work labor;

(v) Industrial products, which for this purpose are defined as goods that have an exclusively functional purpose, do not serve as a traditional artistic medium, and that do not lend themselves to Indian embellishment, such as appliances and vehicles. An industrial product may not become an Indian product.

(vi) A product in the style of an Indian art or craft product that is produced in an assembly line or related production line process using multiple workers not all whom are Indians. For

example, if twenty people make up the labor to create the product(s), and one person is not Indian, the product is not an ''Indian product.''

* * * * *

§§ 309.3–309.6 [Redesignated as §§ 309.24–309.27]

■ 3. Sections 309.3 through 309.6 are redesignated as §§ 309.24 through 309.27

■ 4. Sections 309.6 through 309.23 are added to read as follows:

§ 309.6 When does a commercial product become an Indian product?

In addressing Indian embellishments to originally commercial products, the Indian labor expended to add art or craft work to those objects must be sufficient to substantially transform the qualities and appearance of the original commercial item. ''Commercial products,'' under this part, are consumer goods designed for profit and mass distribution that lend themselves to Indian embellishment, for example clothing and accessories. Through substantial transformation due to Indian labor, a product changes from a commercial product to an Indian product. Examples of formerly commercial products that become Indian products include tennis shoes to which an Indian applies beadwork and denim jackets to which an Indian applies ribbon appliqués.

§ 309.7 How should a seller disclose the nature and degree of Indian labor when selling, offering, or displaying art and craft work for sale?

The Indian Arts and Crafts Act is a truth-in-marketing law. Those who produce and market art and craft work should honestly represent and clarify the degree of Indian involvement in the production of the art and craft work when it is sold, displayed or offered for sale. The following guidelines illustrate the way in which art and craft work may be characterized for marketing purposes and gives examples of products that may be marketed as Indian products.

If . . .	then . . .
(a) An Indian conceives, designs, and makes the art or craft work	it is an ''Indian product.''
(b) An Indian produces a product that is ''handcrafted,'' as explained in 309.3(d)(iii).	it can be marketed as such and it meets the definition of ''Indian product.''
(c) An Indian makes an art or craft work using some machine made parts.	it is ''Indian made'' and meets the definition of ''Indian product.''
(d) An Indian designs a product, such as a bracelet, which is then produced by non-Indians.	it does not meet the definition of ''Indian product'' under the Act.
(e) A product, such as jewelry, is made with non-artistic Indian labor, from assembled or ''fit together parts''.	it does not meet the definition of ''Indian product'' under the Act.[1]
(f) A product in the style of an Indian product is assembled by non-Indian labor from a kit.	it does not meet the definition of ''Indian product'' under the Act.
(g) A product is in the style of an Indian art or craft product, but not made by an Indian.	it does not meet the definition of ''Indian product'' under the Act.
(h) An Indian and a non-Indian jointly undertake the art or craft work to produce an art or craft product, for example a concho belt.	less than all of the labor is Indian and hence it does not meet the definition of ''Indian product'' under the Act.[2]

[1] For example, a necklace strung with overseas manufactured fetishes or heshi. If an Indian assembled the necklace, in keeping with the truth-in-marketing focus of the Act, it can be marketed as ''Indian assembled.'' It does not meet the definition of ''Indian product'' under the Act. Similarly, if a product, such as a dream catcher is assembled by an Indian from a kit, it can be marketed as ''Indian assembled.'' It does not meet the definition of ''Indian product'' under the Act.

[2] In order to be an ''Indian product,'' the labor component of the product must be entirely Indian. In keeping with this truth-in-marketing law, a collaborative work should be marketed as such. Therefore, it should be marketed as produced by ''X'' (name of artist or artisan), ''Y'' (Tribe of individual's enrollment) or (name of Tribe providing official written certification the individual is a non-member Indian artisan and date upon which such certification was issued by the Tribe), and ''Z'' (name of artist or artisan with no Tribe listed) to avoid providing false suggestions to consumers.

§ 309.8 For marketing purposes, what is the recommended method of identifying authentic Indian products?

(a) The recommended method of marketing authentic Indian products is to include the name of the artist or artisan, the name of the Tribe in which the artist or artisan is enrolled, and the individual's Tribal enrollment number. If the individual is a certified non-member Indian artisan, rather than an enrolled Tribal member, the product identification should include the name of the Tribe providing official written certification that the individual is a non-member Indian artisan and the date upon which such certification was issued by the Tribe. In order for an individual to be certified by an Indian Tribe as a non-member Indian artisan, the individual must be of Indian lineage of one or more members of such Indian Tribe and the certification must be issued in writing by the governing body of an Indian Tribe or by a certifying body delegated this function by the governing body of the Indian Tribe.

(b) For example, the Indian product should include a label, hangtag, provenance card, or similar identification that includes W (name of the artist or artisan), and X (name of the Tribe in which the individual is enrolled) and Y (individual's Tribal enrollment number), or a statement that the individual is a certified non-member Indian artisan of Z (name of the Tribe providing certification and the date upon which the certification was issued by the Tribe).

§ 309.9 When can non-Indians make and sell products in the style of Indian arts and crafts?

A non-Indian can make and sell products in the style of Indian art or craft products only if the non-Indian or other seller does not falsely suggest to consumers that the products have been made by an Indian.

§ 309.10 What are some sample categories and examples of Indian products?

What constitutes an Indian product is potentially very broad. However, to provide guidance to persons who produce, market, or purchase items marketed as Indian products, §§ 309.11 through 309.22 contain a sample listing of ''specific examples'' of objects that meet the definition of Indian products. There is some repetition, due to the interrelated nature of many Indian products when made by Indian artistic labor. The lists in these sections contain examples and are not intended to be all-inclusive. Additionally, although the Indian Arts and Crafts Act of 1990 and the Indian Arts and Crafts Enforcement Act of 2000 do not address materials used in Indian products, some materials are included for their descriptive nature only. This is not intended to restrict

materials used or to exclude materials not listed.

§ 309.11 What are examples of jewelry that are Indian products?

(a) Jewelry and related accessories made by an Indian using a wide variety of media, including, but not limited to, silver, gold, turquoise, coral, lapis, jet, nickel silver, glass bead, copper, wood, shell, walrus ivory, whale baleen, bone, horn, horsehair, quill, seed, and berry, are Indian products.

(b) Specific examples include, but are not limited to: ivory and baleen scrimshaw bracelets, abalone shell necklaces, nickel silver scissortail pendants, silver sand cast bracelets, silver overlay bolos, turquoise channel inlay gold rings, cut glass bead rosette earrings, wooden horse stick pins, and medicine wheel quilled medallions.

§ 309.12 What are examples of basketry that are Indian products?

(a) Basketry and related weavings made by an Indian using a wide variety of media, including, but not limited to, birchbark, black ash, brown ash, red cedar, yellow cedar, alder, vine maple, willow, palmetto, honeysuckle, river cane, oak, buck brush, sumac, dogwood, cattail, reed, raffia, horsehair, pine needle, spruce root, rye grass, sweet grass, yucca, bear grass, beach grass, rabbit brush, fiber, maidenhair fern, whale baleen, seal gut, feathers, shell, devil's claw, and porcupine quill, are Indian products.

(b) Specific examples include, but are not limited to: double weave river cane baskets, yucca winnowing trays, willow burden baskets, honeysuckle sewing baskets, black ash picnic baskets, cedar capes and dresses, pine needle/raffia effigy baskets, oak splint and braided sweet grass fancy baskets, birchbark containers, baleen baskets, rye grass dance fans, brown ash strawberry baskets, sumac wedding baskets, cedar hats, fiber basket hats, yucca wicker basketry plaques, and spruce root tobacco pouches.

§ 309.13 What are examples of other weaving and textiles that are Indian products?

(a) Weavings and textiles made by an Indian using a wide variety of media, including, but not limited to, cornhusk, raffia, tule, horsehair, cotton, wool, fiber, linen, rabbit skin, feather, bison fur, and qiviut (musk ox) wool, are Indian products.

(b) Specific examples include, but are not limited to: corn husk bags, twined yarn bags, cotton mantas, willow cradle boards, horsehair hatbands, Chiefs Blankets, Two Grey Hills rugs, horse blankets, finger woven sashes, brocade table runners, star quilts, pictorial appliqué wall hangings, fiber woven bags, embroidered dance shawls, rabbit skin blankets, and feather blankets.

§ 309.14 What are examples of beadwork, quillwork, and moose hair tufting that are Indian products?

(a) Beadwork, quillwork, and moose hair tufting made by an Indian to decorate a wide variety of materials, including, but not limited to, bottles, baskets, bags, pouches, and other containers; belts, buckles, jewelry, hatbands, hair clips, barrettes, bolos, and other accessories; moccasins, vests, jackets, and other articles of clothing; and dolls and other toys and collectibles, are Indian products.

(b) Specific examples include, but are not limited to: quilled pipe stems, loom beaded belts, pictorial bags adorned with cut glass beads, deer skin moccasins decorated with moose hair tufting, beaded miniature dolls, and quilled and beaded amulets.

§ 309.15 What are examples of apparel that are Indian products?

(a) Apparel made or substantially decorated by an Indian, including, but not limited to, parkas, jackets, coats, moccasins, boots, slippers, mukluks, mittens, gloves, gauntlets, dresses, and shirts, are Indian products.

(b) Specific examples include, but are not limited to: seal skin parkas, ribbon appliqué dance shawls, smoked moose hide slippers, deer skin boots, patchwork jackets, calico ribbon shirts, wing dresses, and buckskin shirts.

§ 309.16 What are examples of regalia that are Indian products?

(a) Regalia are ceremonial clothing, modern items with a traditional theme, and accessories with historical significance made or significantly decorated by an Indian, including, but not limited to, that worn to perform traditional dances, participate in traditional socials, used for dance competitions, and worn on special occasions of tribal significance. If these items are made or significantly decorated by an Indian, they are Indian products.

(b) Specific examples include, but are not limited to: hide leggings, buckskin dresses, breech cloths, dance shawls, frontlets, shell dresses, button blankets, feather bustles, porcupine roaches, beaded pipe bags, nickel silver stamped armbands, quilled breast plates, coup sticks, horse sticks, shields, headdresses, dance fans, and rattles.

§ 309.17 What are examples of woodwork that are Indian products?

(a) Woodwork items made by an Indian, including, but not limited to, sculpture, drums, furniture, containers, hats, and masks, are Indian products.

(b) Specific examples include, but are not limited to: hand drums, totem poles, animal figurines, folk carvings, kachinas, embellished long house posts, clan house carved doors, chairs, relief panels, bentwood boxes, snow goggles, red and yellow cedar seagoing canoe paddles, hunting hats, spirit masks, bows and arrows, atlatls, redwood dug out canoes, war clubs, flutes, dance sticks, talking sticks, shaman staffs, cradles, decoys, spiral pipe stems, violins, Native American Church boxes, and maple ladles, spoons, and soup bowls.

§ 309.18 What are examples of hide, leatherwork, and fur that are Indian products?

(a) Hide, leatherwork, and fur made or significantly decorated by an Indian, including, but not limited to, parfleches, tipis, horse trappings and tack, pouches, bags, and hide paintings, are Indian products.

(b) Specific examples include, but are not limited to: narrative painted hides, martingales, saddles, bonnet cases, drapes, quirts, forelocks, rosettes, horse masks, bridles, head stalls, cinches, saddle bags, side drops, harnesses, arm bands, belts, and other hand crafted items with studs and tooling.

§ 309.19 What are examples of pottery and ceramics that are Indian products?

(a) Pottery, ceramics, and related arts and crafts items made or significantly decorated by an Indian, including, but not limited to, a broad spectrum of clays and ceramic material, are Indian products.

(b) Specific examples include, but are not limited to: ollas, pitch vessels, pipes, raku bowls, pitchers, canteens, effigy pots, wedding vases, micaceous bean pots, seed pots, masks, incised bowls, blackware plates, redware bowls, polychrome vases, and storytellers and other figures.

§ 309.20 What are examples of sculpture, carving, and pipes that are Indian products?

(a) Sculpture, carving, and pipes made by an Indian, including, but not limited to, wood, soapstone, alabaster, pipestone, argillite, turquoise, ivory, baleen, bone, antler, and shell, are Indian products.

(b) Specific examples include, but are not limited to: kachina dolls, fetishes, animal figurines, pipestone pipes, moose antler combs, argillite bowls,

ivory cribbage boards, whalebone masks, elk horn purses, and clamshell gorgets.

§ 309.21 What are examples of dolls and toys that are Indian products?

Dolls, toys, and related items made by an Indian, including, but not limited to, no face dolls, corn husk dolls, patchwork and palmetto dolls, reindeer horn dolls, lacrosse sticks, stick game articles, gambling sticks, gaming dice, miniature cradle boards, and yo-yos, are Indian products.

§ 309.22 What are examples of painting and other fine art forms that are Indian products?

Painting and other fine art forms made by an Indian including but, not limited to, works on canvas, photography, sand painting, mural, computer generated art, graphic art, video art work, printmaking, drawing, bronze casting, glasswork, and art forms to be developed in the future, are Indian products.

§ 309.23 Does this part apply to products made before 1935?

The provisions of this part do not apply to any art or craft products made before 1935.

Dated: March 26, 2003.

Lynn Scarlett,

Assistant Secretary—Policy, Management, and Budget.

[FR Doc. 03–14827 Filed 6–11–03; 8:45 am]

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DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1926

[Docket No. S–030]

RIN 1218–AC01

Safety Standards for Cranes and Derricks

AGENCY: Occupational Safety and Health Administration (OSHA), Department of Labor.

ACTION: Notice of Establishment of Negotiated Rulemaking Advisory Committee.

SUMMARY: The Occupational Safety and Health Administration (OSHA) is announcing its decision to establish a Crane and Derrick Negotiated Rulemaking Advisory Committee under the Negotiated Rulemaking Act (NRA), the Occupational Safety and Health Act (OSH Act) and the Federal Advisory Committee Act (FACA).

DATES: The Charter will be filed on June 27, 2003.

FOR FURTHER INFORMATION CONTACT: Michael Buchet, Office of Construction Standards and Guidance, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3468, 200 Constitution Avenue, NW., Washington, DC 20210; Telephone: (202) 693–2345.

SUPPLEMENTARY INFORMATION: In accordance with the Federal Advisory Committee Act (5 U.S.C. App. I), the Occupational Safety and Health Act (29 U.S.C. 651 *et seq.*) and the Negotiated Rulemaking Act of 1990, (5 U.S.C. 561 *et seq.*) and after consultation with the General Services Administration (GSA), the Secretary of Labor has determined that the establishment of the Crane and Derrick Negotiated Rulemaking Advisory Committee is in the public interest in connection with the performance of duties imposed on the Department by the Occupational Safety and Health Act.

The Committee will function as a part of the Department's rulemaking on revising safety standards for cranes and derricks in construction. It will attempt, using face-to-face negotiations, to reach consensus on the coverage and the substance of these rules, which can be used as the basis of a Notice of Proposed Rulemaking. The Committee is responsible for identifying the key issues, gauging their importance, analyzing the information necessary to resolve the issues, attempting to arrive at a consensus, and submitting to the Secretary of Labor proposed regulatory text for an occupational safety standard governing worker safety for crane and derrick work in construction.

Meetings shall be held as necessary, however, no fewer than eight meetings shall be held over a two-year period. The Committee will terminate two years from the date of this charter or upon the publication of a proposed crane and derricks in construction rule, whichever is earlier.

The committee will be composed of no more than 25 members and a facilitator, appointed by the Secretary of Labor. Members may represent the following interests in appropriate balance: Crane and derrick manufacturers, suppliers, and distributors; companies that repair and maintain cranes and derricks; crane and derrick leasing companies; owners of cranes and derricks; construction companies that use leased cranes and derricks; general contractors; labor organizations representing construction employees who operate cranes and derricks and who work in conjunction with cranes and derricks; owners of electric power distribution lines; civil, structural and architectural engineering firms and engineering consultants involved with the use of cranes and derricks in construction; training organizations; crane and derrick operator testing organizations; insurance and safety organizations, and public interest groups; trade associations; government entities involved with construction safety and with construction operations involving cranes and derricks, and other companies, organizations, and trade associations whose interests are affected by an occupational safety standard governing worker safety for crane and derrick work in construction. Also, the Agency is a member of this committee.

The Committee will report to the Assistant Secretary for Occupational Safety and Health in compliance with the applicable provisions of the FACA and the NRA. Its Charter will be filed under the FACA fifteen (15) days from the date of this publication.

OSHA published a **Federal Register** Notice requesting comments on the advisability of establishing this Negotiated Rulemaking Committee (67 FR 46612, July 16, 2002). Virtually all commenters agreed with the need to establish this committee.

Authority: This document was prepared under the direction of Elaine L. Chao, Secretary of Labor, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, pursuant to section 6 and 7 of the Occupational Safety and Health Act (29 U.S.C. 655 and 656); the Negotiated Rulemaking Act of 1990 (5 U.S.C. 561 *et seq.*); the Federal Advisory Committee Act (5 U.S.C. Appendix 1); 41 FR parts 101–6 and 102–3 and 29 CFR part 1911.

Signed at Washington, DC, this 6th day of June 2003.

Elaine L. Chao,

Secretary of Labor.

[FR Doc. 03–14856 Filed 6–11–03; 8:45 am]

BILLING CODE 4510–26–U

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD05–02–099]

RIN 1625–AA11 (Formerly RIN 2115–AE84)

Regulated Navigation Area in Hampton Roads, VA

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is revising the Regulated Navigation Area in Hampton Roads, Virginia, by imposing vessel reporting requirements and speed limit restrictions in certain areas of the port. These measures are necessary because of the unique physical characteristics and resources contained in the port. These regulations will enhance the safety and security of vessels and property in the Hampton Roads port complex while minimizing, to the extent possible, the impact on commerce and legitimate waterway use.

DATES: This rule is effective June 15, 2003.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD05–02–099 and are available for inspection or copying at Marine Safety Division, Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704, between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Lewis Fisher, Jr., Marine Safety Division, Fifth Coast Guard District, (757) 398–6387, between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On April 29, 2003, we published a notice of proposed rulemaking (NPRM) entitled Regulated Navigation Area in Hampton Roads, VA in the **Federal Register** (68 FR 22648). We received three letters commenting on the proposed rule. No public hearings were requested, and none were held.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. This rule will make permanent the two temporary final rules (68 FR 2201 and 68 FR 2884) discussed below. The temporary final rules will expire on June 15, 2003. During the effective period of these temporary final rules, dating back to October and December of 2001 respectfully, we have received no comments concerning the proposed changes to the Regulated Navigation Area in Hampton Roads, VA. This final rule is necessary to ensure the continued safety and security of vessels operating within the Port of Hampton Roads, VA. There have been recent reports, all a matter of public record that indicate a continuing high risk of terrorist activity in the United States. Delay in implementing this rule, would therefore be contrary to public interest.

We have issued a notice of proposed rulemaking; withdrawal (68 FR 34370) which was published on June 9, 2003, for a duplicate notice of proposed rulemaking entitled ''Regulated Navigation Area in Hampton Roads, VA'' (68 FR 27948) which was published on May 22, 2003. The May 22, 2003, notice of proposed rulemaking was inadvertently published after the initial April 29, 2003, publication of a substantially similar notice of proposed rulemaking entitled ''Regulated Navigation Area in Hampton Roads, VA'' (68 FR 22648). The Coast Guard has only withdrawn the May 22, 2003, notice of rulemaking. The April 29, 2003, notice of proposed rulemaking is the basis of this rule.

Background and Purpose

History

Terrorist attacks on September 11, 2001, inflicted catastrophic human casualties and property damage. These attacks highlighted the terrorists' ability and desire to utilize multiple means in different geographic areas to increase their opportunities to successfully carry out their mission, thereby maximizing destruction using multiple terrorist acts.

Since the September 11, 2001, terrorist attacks on the World Trade Center in New York, the Pentagon in Arlington, Virginia and Flight 93, the Federal Bureau of Investigation (FBI) has issued several warnings concerning the potential for additional terrorist attacks within the United States. The threat of maritime attacks is real as evidenced by the October 2002 attack on a tank vessel off the coast of Yemen and the prior attack on the USS COLE. These attacks manifest a continuing threat to U.S. assets as described in the President's finding in Executive Order 13273 of August 21, 2002 (67 FR 56215, September 3, 2002), that the security of the U.S. is endangered by the September 11, 2001, attacks and that such disturbances continue to endanger the international relations of the United States. *See also Continuation of the National Emergency with Respect to Certain Terrorist Attacks,* (67 FR 58317, September 13, 2002); *Continuation of the National Emergency With Respect to Persons Who Commit, Threaten To Commit, or Support Terrorism,* (67 FR 59447, September 20, 2002). The U.S. Maritime Administration (MARAD) in Advisory 02–07 advised U.S. shipping interests to maintain a heightened state of alert against possible terrorist attacks. MARAD more recently issued Advisory 03–05 informing operators of maritime interests of increased threat possibilities to vessels and facilities and a higher risk of terrorist attack to the transportation community in the United States. The ongoing hostilities in Afghanistan and Iraq have made it prudent for U.S. ports and waterways to be on a higher state of alert because the al Qaeda organization and other similar organizations have declared an ongoing intention to conduct armed attacks on U.S. interests worldwide.

Due to increased awareness that future terrorist attacks are possible, the Coast Guard as lead Federal agency for maritime homeland security, has determined that the District Commander must have the means to be aware of, deter, detect, intercept, and respond to asymmetric threats, acts of aggression, and attacks by terrorists on the American homeland while still maintaining our freedoms and sustaining the flow of commerce. A Regulated Navigation Area is a tool available to the Coast Guard that may be used to control vessel traffic by specifying times of vessel entry, movement, or departure to, from, within, or through ports, harbors, or other waters.

On October 24, 2001, we published a temporary final rule entitled, ''Regulated Navigation Area; Chesapeake Bay Entrance and Hampton Roads, VA and Adjacent Waters,'' in the **Federal Register** (66 FR 53712). The temporary final rule required that all vessels of 300 gross tons or greater reduce speed to eight knots in the vicinity of Naval Station Norfolk, in order to improve security measures and reduce the potential threat to Naval Station Norfolk security that may be posed by these vessels. In June 2002, this temporary final rule was extended in the **Federal Register** (67 FR 41337). On December 22, 2002, we republished this temporary final rule in the **Federal Register** (68 FR 2201).

On December 27, 2001, we published a temporary final rule entitled, ''Regulated Navigation Area; Chesapeake Bay Entrance and Hampton Roads, VA and Adjacent Waters,'' in the **Federal Register** (66 FR 66753). The temporary rule expanded the geographic definitions of the Hampton Roads Regulated Navigation Area to include the waters of the 12 nautical mile territorial sea off the Coast of Virginia and added new port security measures. The port security measures require that vessels in excess of 300 gross tons, including tug and barge combinations in excess of 300 gross tons combined, check-in with the Captain of the Port or his representative at least 30 minutes prior to entry to obtain permission to transit the Regulated Navigation Area. The vessel may enter the Regulated

Navigation Area upon authorization and approval by the Captain of the Port or his representative. A vessel that receives permission to enter the Regulated Navigation Area remains subject to a Coast Guard port security boarding. Thirty (30) minutes prior to getting underway, vessels departing or moving within the Regulated Navigation Area must contact the Captain of the Port or his representative via VHF-FM channel 13 or 16, call (757) 444–5209/5210 or (757) 668–5555 for the Captain of the Port Duty Officer. In June 2002, this temporary final rule was extended in the **Federal Register** (67 FR 41337). On December 22, 2002, we republished this temporary final rule in the **Federal Register** (68 FR 2201).

On April 29, 2003, we published a notice of proposed rulemaking (NPRM) entitled ''Regulated Navigation Area in Hampton Roads, VA'' in the **Federal Register** (68 FR 22648). We received three letters commenting on the proposed rule.

This rule will make permanent the above two temporary rules as well as update the Regulated Navigation Area to encompass aspects of navigational safety and security in a post September 11, 2001, environment. The reporting and speed limit restrictions will enable the COTP to closely monitor vessel movements in the Regulated Navigation Area.

Discussion of Comments and Changes

We received two letters on the eight knots speed limit for vessels over 300 gross tons in the Norfolk Harbor Reach channel. The comments stated that in some instances it is difficult for vessels to operate at this reduced speed. Depending on individual ship construction and engine type, eight knots may be near or at the lower limit of speed necessary to maintain positive control of a vessel's steering system. The comments stated that when a vessel is transiting with the current, it may be necessary to operate at a ''dead slow'' bell to maintain an eight knot speed, which may limit steering capability and introduce a safety concern. The Coast Guard agrees with these comments and has changed the speed restriction in the Norfolk Harbor Reach channel from eight knots to ten knots.

We received one letter with four comments on specific regulations. The first comment regarded the expansion of the Regulated Navigation Area to twelve nautical miles offshore, noting that vessels over 300 gross tons that are transiting the coast without intent to enter the Port of Hampton Roads would still have to request permission from the Joint Harbor Operations Center if they would be passing within 12 nautical miles. This is the intent of the rule. To increase maritime domain awareness, the Coast Guard desires that all vessels over 300 gross tons contact the Joint Harbor Operations Center so that their intent of transit may be ascertained. This increases the Coast Guard's ability to detect potential security risks to the port as early as possible.

The second comment stated that the requirement for vessels over 300 gross tons to contact the Joint Harbor Operations Center for permission to enter the Regulated Navigation Area is redundant with separate advance notice of arrival requirements. The comment stated that the Coast Guard should coordinate local and national regulations. The Coast Guard believes that these regulations are both coordinated and complementary. When vessels over 300 gross tons give advance notice of arrival, their expected arrival date and time are provided in a daily list to the Joint Harbor Operations Center. When a specific vessel calls to request permission to enter the Regulated Navigation Area, the Joint Harbor Operations Center is able to rapidly verify that the vessel is expected. This procedure provides a positive measure of security to the port, in that the Joint Harbor Operations Center can identify an unexpected arrival of a vessel over 300 gross tons.

The third comment stated that the security provisions of the regulation seemingly allow members of the Coast Guard to board vessels without a valid purpose and without identification. The Coast Guard has an overall methodology for managing security in the port. Random vessel boardings are a defined part of that methodology. Therefore, all vessel boardings conducted by Coast Guard boarding teams are sanctioned and valid in nature. All Coast Guard personnel will have proper identification at all times, and Coast Guard vessels will be properly marked and will be flying the Coast Guard ensign.

The fourth comment concerned the requirement to provide photo identification and a valid purpose to board vessels over 300 gross tons, asking if this requirement applied at dockside, shipyards and for passenger ferries. This is the intent of the rule. We do expect this requirement to be fully enforced for vessels over 300 gross tons at dockside. Regarding shipyards, we recognize that persons go on and off ships in repair status constantly. We expect that individual shipyard security programs will manage who is in the shipyard at all times and will ensure compliance with this requirement. The rule does apply to passenger ferries, recognizing that there are currently no passenger ferries over 300 gross tons that make routine stops within the Regulated Navigation Area. It is possible that a passenger ferry over 300 gross tons could operate within the Regulated Navigation Area, and the Coast Guard would expect compliance with the regulation. Operators of ferries over 300 gross tons that anticipate conducting passenger operations within the Regulated Navigation Area are encouraged to contact the Marine Safety Office Hampton Roads if they have concerns with this rule.

Finally, we have re-arranged the definitions section of the regulations so that the definitions are in alphabetical order. No other changes were made.

Discussion of Rule

On April 29, 2003, we published a notice of proposed rulemaking (NPRM) entitled Regulated Navigation Area in Hampton Roads, VA in the **Federal Register** (68 FR 22648).

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is not necessary. The speed limit restriction for the Norfolk Harbor Reach would apply to vessels 300 gross tons or greater. The speed limit requirements would only be in effect for less than 4 miles, and based on the typical vessel speeds we expect delays for vessels to be less than 5 minutes in each direction. The port security measures will affect only those vessels in excess of 300 gross tons that enter or move within the Port of Hampton Roads. The additional changes to this rule clarify and simplify existing regulations, and remove unnecessary restrictions.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit

organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule does not have a significant economic impact on a substantial number of small entities. The rule affects the following entities, some of which might be small entities: Shipping companies, towing companies, dredging companies, commercial fishing vessels, small passenger vessels and recreational vessels that operate within the Regulated Navigation Area.

This rule will not have a significant economic impact on a substantial number of small entities for the following reasons: It will limit the speed of vessels 300 gross tons or greater transiting Norfolk Harbor Reach to 10 knots. It will institute additional port security measures for vessels in excess of 300 gross tons that enter or move within the Port of Hampton Roads. Vessels under 300 gross tons are exempt.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking process.

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or Local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Although this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that Order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have analyzed this rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. A final ''Environmental Analysis Check List'' and a final ''Categorical Exclusion Determination'' are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 subpart F as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.

■ 2. Revise § 165.501 to read as follows:

§ 165.501 Chesapeake Bay entrance and Hampton Roads, VA and adjacent waters—Regulated Navigation Area.

(a) *Location.* The waters enclosed by the shoreline and the following lines are a Regulated Navigation Area:

(1) *Offshore zone.* A line drawn due East from the mean low water mark at the North Carolina and Virginia border at latitude 36°33′03″ N, longitude 75°52′00″ W, to the Territorial Seas boundary line at latitude 36°33′05″ N, longitude 75°36′51″ W, thence generally Northeastward along the Territorial Seas boundary line to latitude 38°01′39″ N, longitude 74°57′18″ W, thence due West to the mean low water mark at the Maryland and Virginia border at latitude 38°01′39″ N, longitude 75°14′30″ W, thence South along the mean low water mark on the Virginia coast, and eastward of the Colregs Demarcation Lines across Chincoteague Inlet, Assawoman Inlet, Gargathy Inlet, Metompkin Inlet, Wachapreague Inlet, Quinby Inlet, Great Machipongo Inlet, Sand Shoal Inlet, New Inlet, Ship Shoal Inlet and Little Inlet, to the Colregs Demarcation Line across the mouth of Chesapeake Bay, continuing south along the Virginia low water mark and eastward of the Colregs Demarcation Line across Rudee Inlet to the point of beginning. All positions reference NAD 83.

(2) *Inland zone.* The waters enclosed by the shoreline and the following lines:

(i) A line drawn across the entrance to Chesapeake Bay between Wise Point and Cape Charles Light, and then continuing to Cape Henry Light.

(ii) A line drawn across the Chesapeake Bay between Old Point Comfort Light and Cape Charles City Range ''A'' Rear Light.

(iii) A line drawn across the James River along the eastern side of U.S. Route 17 highway bridge, between Newport News and Isle of Wight County, Virginia.

(iv) A line drawn across Chuckatuck Creek along the northern side of the north span of the U.S. Route 17 highway bridge, between Isle of Wight County and Suffolk, Virginia.

(v) A line drawn across the Nansemond River along the northern side of the Mills Godwin (U.S. Route 17) Bridge, Suffolk, Virginia.

(vi) A line drawn across the mouth of Bennetts Creek, Suffolk, Virginia.

(vii) A line drawn across the Western Branch of the Elizabeth River along the eastern side of the West Norfolk Bridge, Portsmouth, Virginia.

(viii) A line drawn across the Southern Branch of the Elizabeth River along the northern side of the I–64 highway bridge, Chesapeake, Virginia.

(ix) A line drawn across the Eastern Branch of the Elizabeth River along the western side of the west span of the Campostella Bridge, Norfolk, Virginia.

(x) A line drawn across the Lafayette River along the western side of the Hampton Boulevard Bridge, Norfolk, Virginia.

(xi) A line drawn across Little Creek along the eastern side of the Ocean View Avenue (U.S. Route 60) Bridge, Norfolk, Virginia.

(xii) A line drawn across Lynnhaven Inlet along the northern side of Shore Drive (U.S. Route 60) Bridge, Virginia Beach, Virginia.

(b) *Definitions.* In this section:

CBBT means the Chesapeake Bay Bridge Tunnel.

Coast Guard Patrol Commander is a Coast Guard commissioned, warrant or petty officer who has been designated by the Commander, Coast Guard Group Hampton Roads.

Designated representative of the Captain of the Port means a person, including the duty officer at the Coast Guard Marine Safety Office Hampton Roads, the Joint Harbor Operations Center watchstander, or the Coast Guard or Navy Patrol Commander who has been authorized by the Captain of the Port to act on his or her behalf and at his or her request to carry out such orders and directions as needed. All patrol vessels shall display the Coast Guard Ensign at all times when underway.

I–664 Bridge Tunnel means the Monitor Merrimac Bridge Tunnel.

Inland waters means waters within the COLREGS Line of Demarcation.

Thimble Shoal Channel consists of the waters bounded by a line connecting Thimble Shoal Channel Lighted Bell Buoy 1TS, thence to Thimble Shoal Lighted Gong Buoy 17, thence to Thimble Shoal Lighted Buoy 19, thence to Thimble Shoal Lighted Buoy 21, thence to Thimble Shoal Lighted Buoy 22, thence to Thimble Shoal Lighted Buoy 18, thence to Thimble Shoal Lighted Buoy 2, thence to the beginning.

Thimble Shoal North Auxiliary Channel consists of the waters in a rectangular area 450 feet wide adjacent to the north side of Thimble Shoal Channel, the southern boundary of which extends from Thimble Shoal Channel Lighted Buoy 2 to Thimble Shoal Lighted Buoy 18.

Thimble Shoal South Auxiliary Channel consists of the waters in a rectangular area 450 feet wide adjacent to the south side of Thimble Shoal Channel, the northern boundary of which extends from Thimble Shoal Channel Lighted Bell Buoy 1TS, thence to Thimble Shoal Lighted Gong Buoy 17, thence to Thimble Shoal Lighted Buoy 19, thence to Thimble Shoal Lighted Buoy 21.

(c) *Applicability.* This section applies to all vessels operating within the Regulated Navigation Area, including naval and public vessels, except vessels that are engaged in the following operations:

(1) Law enforcement.

(2) Servicing aids to navigation.

(3) Surveying, maintenance, or improvement of waters in the Regulated Navigation Area.

(d) *Regulations.*

(1) *Anchoring restrictions.* No vessel over 65 feet long may anchor or moor in the inland waters of the Regulated Navigation Area outside an anchorage designated in § 110.168 of this title, with these exceptions:

(i) The vessel has the permission of the Captain of the Port.

(ii) Only in an emergency, when unable to proceed without endangering the safety of persons, property, or the environment, may a vessel anchor in a channel.

(iii) A vessel may not anchor within the confines of Little Creek Harbor, Desert Cove, or Little Creek Cove without the permission of the Captain of the Port. The Captain of the Port shall consult with the Commander, Naval Amphibious Base Little Creek, before granting permission to anchor within this area.

(2) *Anchoring detail requirements.* A self-propelled vessel over 100 gross tons, which is equipped with an anchor or anchors (other than a tugboat equipped with bow fenderwork of a type of construction that prevents an anchor being rigged for quick release), that is underway within two nautical miles of the CBBT or the I–664 Bridge Tunnel shall station its personnel at locations on the vessel from which they can anchor the vessel without delay in an emergency.

(3) *Secondary towing rig requirements on inland waters.*

(i) A vessel over 100 gross tons may not be towed in the inland waters of the Regulated Navigation Area unless it is equipped with a secondary towing rig, in addition to its primary towing rig, that:

(A) Is of sufficient strength for towing the vessel.

(B) Has a connecting device that can receive a shackle pin of at least two inches in diameter.

(C) Is fitted with a recovery pickup line led outboard of the vessel's hull.

(ii) A tow consisting of two or more vessels, each of which is less than 100 gross tons, that has a total gross tonnage that is over 100 gross tons, shall be equipped with a secondary towing rig between each vessel in the tow, in addition to its primary towing rigs, while the tow is operating within this Regulated Navigation Area. The secondary towing rig must:

(A) Be of sufficient strength for towing the vessels.

(B) Have connecting devices that can receive a shackle pin of at least two inches in diameter.

(C) Be fitted with recovery pickup lines led outboard of the vessel's hull.

(4) *Thimble Shoals Channel controls.*

(i) A vessel drawing less than 25 feet may not enter the Thimble Shoal Channel, unless the vessel is crossing the channel. Masters should consider the squat of their vessel based upon vessel design and environmental conditions. Channel crossings shall be made as perpendicular to the channel axis as possible.

(ii) Except when crossing the channel, a vessel in the Thimble Shoal North Auxiliary Channel shall proceed in a westbound direction.

(iii) Except when crossing the channel, a vessel in the Thimble Shoal South Auxiliary Channel shall proceed in an eastbound direction.

(5) *Restrictions on vessels with impaired maneuverability.*

(i) Before entry. A vessel over 100 gross tons, whose ability to maneuver is

impaired by heavy weather, defective steering equipment, defective main propulsion machinery, or other damage, may not enter the Regulated Navigation Area without the permission of the Captain of the Port.

(ii) After entry. A vessel over 100 gross tons, which is underway in the Regulated Navigation Area, that has its ability to maneuver become impaired for any reason, shall, as soon as possible, report the impairment to the Captain of the Port.

(6) *Requirements for navigation charts, radars, and pilots.* No vessel over 100 gross tons may enter the Regulated Navigation Area, unless it has on board:

(i) Corrected charts of the Regulated Navigation Area. Instead of corrected paper charts, warships or other vessels owned, leased, or operated by the United States Government and used only in government noncommercial service may carry electronic charting and navigation systems that have met the applicable agency regulations regarding navigation safety.

(ii) An operative radar during periods of reduced visibility;

(iii) When in inland waters, a pilot or other person on board with previous experience navigating vessels on the waters of the Regulated Navigation Area.

(7) *Emergency procedures.*

(i) Except as provided in paragraph (d)(7)(ii) of this section, in an emergency any vessel may deviate from the regulations in this section to the extent necessary to avoid endangering the safety of persons, property, or the environment.

(ii) A vessel over 100 gross tons with an emergency that is located within two nautical miles of the CBBT or I–664 Bridge Tunnel shall notify the Captain of the Port of its location and the nature of the emergency, as soon as possible.

(8) *Vessel speed limits.*

(i) *Little Creek.* A vessel may not proceed at a speed over five knots between the Route 60 bridge and the mouth of Fishermans Cove (Northwest Branch of Little Creek).

(ii) *Southern Branch of the Elizabeth River.* A vessel may not proceed at a speed over six knots between the junction of the Southern and Eastern Branches of the Elizabeth River and the Norfolk and Portsmouth Belt Line Railroad Bridge between Chesapeake and Portsmouth, Virginia.

(iii) *Norfolk Harbor Reach.* Nonpublic vessels of 300 gross tons or more may not proceed at a speed over 10 knots between the Elizabeth River Channel Lighted Gong Buoy 5 of Norfolk Harbor Reach (southwest of Sewells Point) at approximately 36°58′00″ N, 076°20′00″ W, and gated Elizabeth River Channel Lighted Buoys 17 and 18 of Craney Island Reach (southwest of Norfolk International Terminal at approximately 36°54′17″ N, and 076°20′11″ W.

(9) *Port security requirements.* Vessels in excess of 300 gross tons, including tug and barge combinations in excess of 300 gross tons (combined), shall not enter the Regulated Navigation Area, move within the Regulated Navigation Area, or be present within the Regulated Navigation Area, unless they comply with the following requirements:

(i) Obtain authorization to enter the Regulated Navigation Area from the designated representative of the Captain of the Port prior to entry. All vessels entering or remaining in the Regulated Navigation Area may be subject to a Coast Guard boarding.

(ii) Ensure that no person who is not a permanent member of the vessel's crew, or a member of a Coast Guard boarding team, boards the vessel without a valid purpose and photo identification.

(iii) Report any departure from or movement within the Regulated Navigation Area to the designated representative of the Captain of the Port prior to getting underway.

(iv) The designated representative of the Captain of the Port shall be contacted on VHF–FM channel 12, or by calling (757) 444–5209, (757) 444–5210, or (757) 668–5555.

(v) In addition to the authorities listed in this part, this paragraph is promulgated under the authority under 33 U.S.C. 1226.

(e) *Waivers.*

(1) The Captain of the Port may, upon request, waive any regulation in this section.

(2) An application for a waiver must state the need for the waiver and describe the proposed vessel operations.

(f) *Control of vessels within the regulated navigation area.*

(1) When necessary to prevent damage, destruction or loss of any vessel, facility or port infrastructure, the Captain of the Port may direct the movement of vessels or issue orders requiring vessels to anchor or moor in specific locations.

(2) If needed for the maritime, commercial or security interests of the United States, the Captain of the Port may order a vessel to move from the location in which it is anchored to another location within the Regulated Navigation Area.

(3) The master of a vessel within the Regulated Navigation Area shall comply with any orders or directions issued to the master's vessel by the Captain of the Port.

Dated: June 5, 2003.

Sally Brice-O'Hara,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 03–14866 Filed 6–11–03; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900–AL22

Accelerated Payments Under the Montgomery GI Bill—Active Duty Program

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document adopts as a final rule, with a minor non-substantive change, a proposed rule amending the regulations governing various aspects of the educational assistance programs the Department of Veterans Affairs (VA) administers. The final rule implements some of the provisions of the Veterans Education and Benefits Expansion Act of 2001. These provisions include accelerated payments to individuals under the Montgomery GI Bill—Active Duty program who are enrolled in approved training programs that lead to employment in high tech industries and whose charged tuition and fees exceed an amount equal to 200 percent of the monthly rate of basic educational assistance allowance otherwise payable. This rule also amends the regulation defining educational institution to include certain private technology entities.

DATES: This final rule is effective June 12, 2003.

Applicability Dates: The revisions to the various sections of the Code of Federal Regulations amended in this final rule are applied retroactively to October 1, 2002, to conform to statutory requirements.

FOR FURTHER INFORMATION CONTACT: Lynn M. Cossette, Education Advisor, Education Service (225C), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, 202–273–7294.

SUPPLEMENTARY INFORMATION: In a document published in the **Federal Register** on September 11, 2002 (67 FR 57543), VA published a proposed rule amending subparts D and K of 38 CFR part 21, regarding criteria for accelerated

payment of Montgomery GI Bill benefits as stated in the **SUMMARY** portion of this document.

Interested persons were given 60 days to submit comments on the proposed rule and the proposed information collections. VA received one comment concerning the proposed rule. The comment came from a director of a company that has a financial interest in a construction trade school. He requested that VA include ''Construction Trades'' or ''Construction Crafts'' in the list of industries an individual must intend to seek employment in to qualify for the accelerated payment provisions. The Veterans Education and Benefits Expansion Act of 2001 (Public Law 107–103) allows an accelerated payment only for courses leading to employment in a ''high technology'' industry. Although the construction trade does offer jobs in technical fields, the construction trade industry did not appear as a ''high technology'' industry in the data we reviewed. The **SUPPLEMENTARY INFORMATION** section of the proposed rule shows the data we used in arriving at the list of ''high technology'' industries. Because the law specifically states the training must lead to employment in a ''high technology'' industry, VA cannot offer accelerated payment for courses leading to employment in other industries. Thus, we did not amend the proposed rule based on the comment received.

Based on the rationale set forth in the proposed rule and in this document, we are adopting the provisions of the proposed rule as a final rule, except as stated below.

We amended proposed § 21.7151(c) to include information inadvertently omitted. The amendment, located at § 21.7151(c)(1)(vi), applies when an individual who received an accelerated payment applies for a subsequent accelerated payment. This amendment states that an individual must make all certifications required in § 21.7154(d) for any previous accelerated payment before we make a subsequent accelerated payment. The purpose of this amendment is to ensure proper payment of benefits by avoiding overpayments. Generally, Montgomery GI Bill payments are paid at the end of each month after students certify their attendance for that month. However, under the accelerated payment provisions individuals can receive the payment at the start of a course but their certification is not required until the end of the course. An individual could receive a payment of $6,000 at the start of the course. After receiving payment he or she might drop out of the course and therefore may not be entitled to the full $6,000 payment. The certification shows whether the individual completed the course or not. If he or she dropped the course, the certification will show the date last attended. VA uses the certification information to recalculate the payment and determine if an overpayment of benefits occurred. Before we release another accelerated payment, we must be certain that an overpayment has not occurred. If an overpayment has occurred, we would notify the individual of the amount owed VA and, if necessary reduce the subsequent accelerated payment by that amount.

Additionally, paragraph (b) of § 21.7140 has been changed to correct typographical errors that were published in the proposed rule on September 11, 2002, at 67 FR 57543. The first error was an incorrect cite to § 21.7151(d), which does not exist. The second error was an incorrect cite to § 21.7154(c), which should have read § 21.7154(d). This document corrects those errors.

Paperwork Reduction Act

The final rule contains new reporting requirements. We described the new reporting requirements in the preamble of the proposed rule and provided a comment period. We did not receive any comments concerning the new reporting requirements. The Office of Management and Budget assigned control number 2900–0636 to the new reporting requirements.

Unfunded Mandates

The Unfunded Mandates Reform Act requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in an expenditure by State, local, or tribal governments, in the aggregate, or by the private section, of $100 million or more in any given year. This final rule has no consequential effect on State, local, or tribal governments.

Executive Order 12866

This document has been reviewed by the Office of Management and Budget under Executive Order 12866.

Regulatory Flexibility Act

The Secretary of Veterans Affairs hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This final rule affects only individuals and will not directly affect small entities. Pursuant to 5 U.S.C. 605(b), this rule, therefore, is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Catalog of Federal Domestic Assistance Program Numbers

The Catalog of Federal Domestic Assistance numbers for the programs affected by this proposed rule are 64.117, 64.120, and 64.124.

List of Subjects in 38 CFR Part 21

Administrative practice and procedure, Armed forces, Civil rights, Claims, Colleges and universities, Conflicts of interests, Defense Department, Education, Employment, Grant programs-education, Grant programs-veterans, Health care, Loan programs-education, Loan programs-veterans, Manpower training programs, Reporting and recordkeeping requirements, Schools, Travel and transportation expenses, Veterans, Vocational education, Vocational rehabilitation.

Approved: March 12, 2003.

Anthony J. Principi,

Secretary of Veterans Affairs.

■ For the reasons set out in the preamble, 38 CFR part 21 (subparts D and K) is amended to read as follows:

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart D—Administration of Educational Assistance Programs

■ 1. The authority citation for part 21, subpart D continues to read as follows:

Authority: 10 U.S.C. 2141 note, ch.1606; 38 U.S.C. 501(a), chs. 30, 32, 34, 35, 36, unless otherwise noted.

■ 2. Section 21.4138 is amended by:

■ a. In paragraph (f)(1)(v), removing ''basis; or'' and adding, in its place, ''basis;''.

■ b. In paragraph (f)(1)(vi), removing ''basis.'' and adding, in its place, ''basis; or''.

■ c. Adding paragraph (f)(1)(vii).

The addition reads as follows:

§ 21.4138 Certifications and release of payments.

* * * * *

(f) * * *

(1) * * *

(vii) The veteran receives an accelerated payment for the term, quarter, semester, or summer session preceding the interval.

* * * * *

■ 3. Section 21.4200 is amended by:

■ a. In paragraph (a)(4), removing ''section; or'', and adding, in its place, ''section;'';

■ b. In paragraph (a)(5), removing ''program.'', and adding, in its place, ''program; or''; and
■ c. Adding paragraph (a)(6); and paragraphs (aa) through (dd) immediately after the authority citation at the end of paragraph (z).
■ d. Revising the authority citation at the end of paragraph (a).

The revisions and additions read as follows:

§ 21.4200 Definitions.

(a) * * *

(6) Any private entity that offers, either directly or indirectly under an agreement with another entity, a course or courses to fulfill requirements for the attainment of a license or certificate generally recognized as necessary to obtain, maintain, or advance in employment in a profession or vocation in a high technology occupation.

(Authority: 38 U.S.C. 3452, 3501(a)(6), 3689(d))

* * * * *

(aa) *High technology industry:* The term *high technology industry* includes the following industries:

(1) Biotechnology;
(2) Life science technologies;
(3) Opto-electronics;
(4) Computers and telecommunications;
(5) Electronics;
(6) Computer-integrated manufacturing;
(7) Material design;
(8) Aerospace;
(9) Weapons;
(10) Nuclear technology; and
(11) Any other identified advanced technologies in the biennial Science and Engineering Indicators report published by the National Science Foundation.

(Authority: 38 U.S.C. 3014A, 3452(c), 3501(a)(6))

(bb) *Employment in a high technology industry. Employment in a high technology industry* means employment in a high technology occupation specific to a high technology industry.

(Authority: 38 U.S.C. 3014A)

(cc) *High technology occupation.* The term *high technology occupation* means an occupation that leads to employment in a high technology industry. These occupations consist of:

(1) Life and physical scientists;
(2) Engineers;
(3) Mathematical specialists;
(4) Engineering and science technicians;
(5) Computer specialists; and
(6) Engineering, scientific, and computer managers.

(Authority: 38 U.S.C. 3014A, 3452(c), 3501(a)(6))

(dd) *Computer specialists.* The term *computer specialists* includes the following occupations:

(1) Database, system, and network administrators;
(2) Database, system, and network developers;
(3) Computer and network engineers;
(4) Systems analysts;
(5) Programmers;
(6) Computer, database, and network support specialists;
(7) All computer scientists;
(8) Web site designers;
(9) Computer and network service technicians;
(10) Computer and network electronics specialists; and
(11) All certified professionals, certified associates and certified technicians in the information technology field.

(Authority: 38 U.S.C. 3014A, 3452(c), 3501(a)(6))

* * * * *

Subpart K—All Volunteer Force Educational Assistance Program (Montgomery GI Bill—Active Duty)

■ 4. The authority citation for part 21, subpart K continues to read as follows:

Authority: 38 U.S.C. 501(a), chs. 30, 36, unless otherwise noted.

■ 5. Section 21.7020 is amended by adding paragraphs (b)(47) through (b)(51) immediately following the authority citation at the end of the section.

The additions read as follows:

§ 21.7020 Definitions.

* * * * *

(b) * * *

(47) *High technology industry.* The term *high technology industry* has the same meaning as provided in § 21.4200(aa).

(Authority: 38 U.S.C. 3014A, 3452(c), 3501(a)(6))

(48) *Employment in a high technology industry. Employment in a high technology* industry has the same meaning as provided in § 21.4200(bb).

(Authority: 38 U.S.C. 3014A)

(49) *High technology occupation.* The term *high technology occupation* has the same meaning as provided in § 21.4200(cc).

(Authority: 38 U.S.C. 3014A, 3452(c), 3501(a)(6))

(50) *Computer specialist.* The term *computer specialist* has the same meaning as provided in § 21.4200(dd).

(Authority: 38 U.S.C. 3014A, 3452(c), 3501(a)(6))

(51) *Accelerated payment.* An *accelerated payment* is a lump sum payment of a maximum of 60 percent of the charged tuition and fees for an individual's enrollment for a term, quarter, or semester in an approved program of education leading to employment in a high technology industry. In the case of a program of education not offered on a term, quarter, or semester basis, the accelerated payment is a lump sum payment of a maximum of 60 percent of the charged tuition and fees for the entire such program.

(Authority: 38 U.S.C. 3014A)

■ 6. Section 21.7076 is amended by revising paragraphs (a), (b)(1) introductory text, and (b)(7) to read as follows:

§ 21.7076 Entitlement charges.

(a) *Overview.* VA will make charges against entitlement as stated in this section.

(1) Charges will be made against the entitlement the veteran or servicemember has to educational assistance under 38 U.S.C. chapter 30 as the assistance is paid.

(2) There will be a charge (for record purposes only) against the remaining entitlement, under 38 U.S.C. chapter 34, of an individual who is receiving the educational assistance under § 21.7137 of this part. The record-purpose charges against entitlement under 38 U.S.C. chapter 34 will not count against the 48 months of total entitlement under both 38 U.S.C. chapters 30 and 34 to which the veteran or service member may be entitled. (*See* § 21.4020(a) of this part).

(3) Generally, VA will base those entitlement charges on the principle that a veteran or service member who trains full time for one day should be charged one day of entitlement. However, this general principle does not apply to a veteran or servicemember who:

(i) Is pursuing correspondence training;
(ii) Is pursuing flight training;
(iii) Is pursuing an apprenticeship or other on-job training; or
(iv) Is paid an accelerated payment.

(4) The provisions of this section apply to:

(i) Veterans and service members training under 38 U.S.C. chapter 30; and
(ii) Veterans training under 38 U.S.C. chapter 31 who make a valid election under § 21.21 of this part to receive educational assistance equivalent to that paid to veterans under 38 U.S.C. chapter 30.

(Authority: 38 U.S.C. 3013, 3014(A), 3014(b))

(b) * * *

(1) Except for those pursuing correspondence training, flight training, apprenticeship or other on-the-job training, those who are receiving tutorial assistance, and those who receive an accelerated payment, VA will make a charge against entitlement:

* * * * *

(7) When a veteran or servicemember is paid an accelerated payment, VA will make a charge against entitlement for each accelerated payment made to him or her. The charge—

(i) Will be made in months and decimal fractions of a month; and

(ii) Will be determined by dividing the amount of the accelerated payment by an amount equal to the rate of basic educational assistance otherwise applicable to him or her for full-time institutional training. If the rate of basic educational assistance increases during the enrollment period, VA will charge entitlement for the periods covered by the initial rate and the increased rate, respectively.

(Authority: 38 U.S.C. 3014A)

* * * * *

■ 7. Section 21.7140 is amended by:

■ a. Redesignating paragraphs (b) through (f) as paragraphs (c) through (g), respectively.

■ b. Adding a new paragraph (b).

■ c. Revising newly redesignated paragraph (c)(1) introductory text.

■ The addition and revision read as follows:

§ 21.7140 Certifications and release of payments.

* * * * *

(b) *Accelerated payments.* VA will apply the provisions of §§ 21.7151(a), (c), and 21.7154(d) in making accelerated payments.

(c) * * *

(1) VA will pay educational assistance to a veteran or servicemember (other than one pursuing a program of apprenticeship or other on-job training, a correspondence course, one who qualifies for advance payment, one who qualifies for an accelerated payment, or one who qualifies for a lump sum payment) only after—

* * * * *

§ 21.7142 [Redesignated as § 21.7143]

■ 8. Section 21.7142 is redesignated as § 21.7143.

■ 9. A new § 21.7142 is added to read as follows:

§ 21.7142 Accelerated payments.

The accelerated payment will be the lesser of—

(a) The amount equal to 60 percent of the charged tuition and fees for the term, quarter or semester (or the entire program of education for those programs not offered on a term, quarter, or semester basis), or

(b) The aggregate amount of basic education assistance to which the individual remains entitled under this chapter at the time of the payment.

(Authority: 38 U.S.C. 3014A)

■ 10. Section 21.7151 is amended by:

■ a. Revising the section heading.

■ b. Adding paragraph (c) and the information parenthetical immediately following the authority citation at the end of the section.

■ The revision and additions read as follows:

§ 21.7151 Advance payment and accelerated payment certifications.

* * * * *

(c) *Accelerated payments.* (1) A veteran or servicemember is eligible for an accelerated payment only if—

(i) The veteran or servicemember submits a signed statement to the school or to VA that states ''I request accelerated payment'';

(ii) The veteran or servicemember is enrolled in a course or program of education or training beginning on or after October 1, 2002;

(iii) The veteran is enrolled in an approved program as defined in § 21.4200 (aa);

(iv) The charged tuition and fees for the term, quarter, or semester (or entire program for those programs not offered on a term, quarter or semester basis) divided by the number of months (and fractions thereof) in the enrollment period, exceeds the amount equal to 200 percent of the monthly rate of basic educational assistance allowance otherwise payable under §§ 21.7136 or 21.7137, as applicable;

(v) The veteran or servicemember requesting the accelerated payment has not received an advance payment under § 21.7140(a) for the same enrollment period; and

(vi) The veteran or servicemember has submitted all certifications required under § 21.7154(d) for any previous accelerated payment he or she received.

(2) Except as provided in paragraph (c)(5) of this section, VA will make the accelerated payment directly to the educational institution, in the veteran's or servicemember's name, for delivery to the veteran or servicemember if:

(i) The educational institution submits the enrollment certification required under § 21.7152 before the actual start of the term, quarter or semester (or the start of the program for a program not offered on a term, quarter or semester basis); and

(ii) The educational institution at which the veteran or servicemember is accepted or enrolled agrees to—

(A) Provide for the safekeeping of the accelerated payment check before delivery to the veteran or servicemember;

(B) Deliver the payment to the veteran or servicemember no earlier than the start of the term, quarter or semester (or the start of the program if the program is not offered on a term, quarter or semester basis);

(C) Certify the enrollment of the veteran or servicemember and the amount of tuition and fees therefor; and

(D) Certify the delivery of the accelerated payment to the veteran or servicemember.

(3) VA will make accelerated payments directly to the veteran or servicemember if the enrollment certification required under § 21.7152 is submitted on or after the first day of the enrollment period. VA will electronically deposit the accelerated payment in the veteran's or servicemember's bank account unless—

(i) The veteran or servicemember does not have a bank account; or

(ii) The veteran or servicemember objects to payment by electronic funds transfer.

(4) VA must make the accelerated payment no later than the last day of the month immediately following the month in which VA receives a certification from the educational institution regarding—

(i) The veteran's or servicemember's enrollment in the program of education; and

(ii) The amount of the charged tuition and fees for the term, quarter or semester (or for a program that is not offered on a term, quarter, or semester basis, the entire program).

(5) The Director of the VA field station of jurisdiction may direct that accelerated payments not be made in advance of the first day of the enrollment period in the case of veterans or servicemembers attending an educational institution that demonstrates its inability to discharge its responsibilities for accelerated payments. In such a case, the accelerated payment will be made directly to the veteran or servicemember as provided in paragraph (a)(3).

(Authority: 38 U.S.C. 3014A)

(The Office of Management and Budget has approved the information collection requirements in this section under control number 2900–0636.)

■ 11. Section 21.7154 is amended by:

■ a. Revising the authority citation at the end of paragraph (a) and the information parenthetical at the end of the section.

■ b. Adding paragraph (a)(4) immediately following the authority citation at the end of paragraph (a)(3); and by adding paragraph (d) immediately following the authority citation at the end of the section.
■ The revision and additions read as follows:

§ 21.7154 Pursuit and absences.

* * * * *

(a) * * *

(4) Has received an accelerated payment for the enrollment period.

(Authority: 38 U.S.C. 3014A, 3034, 3684)

* * * * *

(d) *Additional requirements for individuals receiving an accelerated payment.*

(1) When an individual receives an accelerated payment as provided in § 21.7151(c) and (d), he or she must certify the following information within 60 days of the end of the term, quarter or semester (or entire program when the program is not offered on a term, quarter, or semester basis) for which the accelerated payment was made:

(i) The course or program was successfully completed, or if the course was not completed—

(A) The date the veteran or servicemember last attended; and

(B) An explanation why the course was not completed;

(ii) If the veteran or servicemember increased or decreased his or her training time—

(A) The date the veteran or servicemember increased or decreased training time; and

(B) The number of credit/clock hours pursued before and after each such change in training time; and

(iii) The accelerated payment was received and used.

(2) VA will establish an overpayment equal to the amount of the accelerated payment if the required certifications in paragraph (c)(1) of this section are not timely received.

(3) VA will determine the amount of the overpayment of benefits for courses not completed in the following manner—

(i) For a veteran or servicemember who does not complete the full course, courses, or program for which the accelerated payment was made, and who does not substantiate mitigating circumstances for not completing, VA will establish an overpayment equal to the amount of the accelerated payment.

(ii) For a veteran or servicemember who does not complete the full course, courses, or program for which the accelerated payment was made, but who substantiates mitigating circumstances for not completing, VA will prorate the amount of the accelerated payment to which he or she is entitled based on the number of days from the beginning date of the enrollment period through the date of last attendance. VA will determine the prorated amount by dividing the accelerated payment amount by the number of days in the enrollment period, and multiplying the result by the number of days from the beginning date of the enrollment period through the date of last attendance. The result of this calculation will equal the amount the individual is due. The difference between the accelerated payment and the amount the individual is due will be established as an overpayment.

(Authority: 38 U.S.C. 3014A(g))

* * * * *

(The Office of Management and Budget has approved the information collection requirements in this section under control numbers 2900–0465 and 2900–0636.)

[FR Doc. 03–14860 Filed 6–11–03; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[IN156–1a; FRL–7512–4]

Approval and Promulgation of State Plans for Facilities and Pollutants: Indiana; Plan for Controlling Emissions from Existing Commercial and Industrial Solid Waste Incinerators

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving the plan submitted by the Indiana Department of Environmental Management (IDEM) on December 20, 2002, under sections 111(d) and 129 of the Clean Air Act (Act). This plan is designed to implement and enforce the federal Emission Guidelines (EG) applicable to existing Commercial and Industrial Solid Waste Incineration units (CISWI) for which construction commenced on or before November 30, 1999.

DATES: This rule is effective on August 11, 2003 without further notice unless EPA receives significant adverse written comment by July 14, 2003. If EPA receives such comments, we will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Comments must be submitted to J. Elmer Bortzer, Chief, Regulation Development Section, Air and Radiation Division (AR–18J) Region 5, U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. You may examine copies of materials relevant to this action during normal business hours, by appointment at the following locations: Environmental Protection Agency, Region 5, 18th Floor Docket Room, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

FOR FURTHER INFORMATION CONTACT: John Paskevicz, Engineer, at (312) 886–6084, or e-mail at *paskevicz.john@epa.gov,* if you intend to visit the Region 5 office.

SUPPLEMENTARY INFORMATION: Throughout this document, the terms ''you'' refer to the reader of this rule and/or to sources subject to the State rule, and the terms ''we'', ''us'', or ''our'' refers to EPA.

Table of Contents

I. Background

On December 1, 2000, in accordance with sections 111 and 129 of the Act, the EPA promulgated CISWI EGs and compliance schedules for the control of emissions from CISWI units. *See* 65 FR 75362. EPA codified these regulations at 40 CFR part 60, subpart DDDD. Under section 129(b)(2) of the Act and the regulations at subpart DDDD, states with subject sources must submit to EPA plans that implements the EGs. These plans must be at least as protective as the EGs, which are not federally enforceable until EPA approves a State plan (or adopts a federal plan for implementation and enforcement).

On February 23, 2001, Region 5, EPA sent a letter to Indiana, as well as other States in the Region, informing the State of the need to develop a CISWI plan for its subject sources. We also identified the nine elements necessary for an approvable CISWI plan, as contained in 40 CFR 60.2515.

On December 20, 2002, IDEM submitted to EPA its CISWI plan. This submission followed public hearings on February 6, 2002 and public notice of the State plan on October 7, 2002. The State adopted the rule in final form on May 1, 2002; it became effective on September 6, 2002. The plan includes State rule 326 IAC 11–8, which establishes emission standards for existing CISWI consistent with 40 CFR part 60, subpart DDDD.

II. What Does the State Plan Contain?

The State submittal is based on the CISWI model rule (40 CFR 60.2575 to 60.2875) and incorporates by reference significant portions of that rule. As indicated in Table 1, the State plan contains the nine required elements.

The State plan contained or addressed all of the elements listed in Section 60.2515 of the December 1, 2000, model rule. The plan contained:

1. An inventory of affected CISWI units.
2. An inventory of the emissions from each of the CISWI units.
3. A State rule (326 IAC 11–8–2) specifying the requirement for a final control plan and specifying when the units must be in final compliance.
4. Incorporation by reference (IBR) of EPA emission limitations, operator training and qualification requirements, a waste management plan, and operating limits for affected CISWI units.
5. IBR for performance testing, recordkeeping, and reporting requirements.
6. Certification that a hearing on the State plan was held, and a brief written summary of comments.
7. A statement that the State will submit data and information using the EPA Aerometric Emissions Information Retrieval System.
8. A discussion that the State chose as an enforcement mechanism, a State rule (326 IAC 11–8) which contains IBR of the EPA's CISWI EG.
9. A detailed list which demonstrates the State has legal authority to carry out sections 111(d) and 129 of the Clean Air Act, in the State plan.

The Indiana rule details the increments of progress for the affected CISWI. It also calls for final compliance by September 1, 2005, and, in this regard, is somewhat more restrictive than the EPA requirement.

III. Does the State Plan Meet the EPA Requirements?

EPA evaluated the CISWI State plan submitted by Indiana for consistency with the Act, EPA regulations and policy. EPA has determined that the plan meets all applicable requirements and, therefore, is approving it. This approval is based on our findings that in addition to the technical elements provided by IDEM, that:

(a) Provided adequate public notice of public hearings for the proposed rulemaking that allows Indiana to carry out and enforce provisions that are at least as protective as the EGs for CISWIs; and,

(b) Demonstrated legal authority to: incorporate by reference emission standards and compliance schedules applicable to the designated facilities; enforce applicable laws, regulations, standards and compliance schedules; seek injunctive relief; obtain information necessary to determine compliance; require record keeping; conduct inspections and tests; require the use of monitors; require emission reports of owners and operators; and, make emission data publicly available.

Additional details concerning EPA's evaluation of the Indiana plan are included in the technical support file available for inspection from the EPA contact listed above.

IV. What Action Is EPA Taking Today?

EPA is approving the plan which Indiana submitted on December 20, 2002, for the control of emissions from existing CISWI sources in the State. EPA is publishing this approval notice without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. However, in the proposed rule section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the State plan in the event adverse comments are filed. If we do not receive any adverse comments by July 14, 2003 this action will be effective on August 11, 2003.

V. Statutory and Executive Order Reviews

Executive Order 12866; Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget.

Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001).

Regulatory Flexibility Act

This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Unfunded Mandates Reform Act

Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

Executive Order 13175 Consultation and Coordination with Indian Tribal Governments

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

Executive Order 13132 Federalism

This action also does not have federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act.

Executive Order 13045 Protection of Children From Environmental Health and Safety Risks

This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

National Technology Transfer Advancement Act

In reviewing plan submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a plan submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the

National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

Paperwork Reduction Act

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 804 exempts from section 801 the following types of rules: (1) Rules of particular applicability; (2) rules relating to agency management or personnel; (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding this action under section 801 because this is a rule of particular applicability.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 11, 2003. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* § 307(b)(2).)

List of Subjects in 40 CFR Part 62

Environmental protection, Air pollution control, Metals, Sulfur oxides, Particulate matter, Carbon monoxide, Acid gases, Waste treatment and disposal, Reporting and recordkeeping requirements.

Dated: May 29, 2003.

Bharat Mathur,

Acting Regional Administrator, Region 5.

■ Part 62 of chapter 1, title 40, of the Code of Federal Regulations is amended as follows:

PART 62—[AMENDED]

■ 1. The authority citation for part 62 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart P—Indiana

■ 2. A new undesignated center heading and § 62.3660 are added to Subpart P to read as follows:

CONTROL OF AIR EMISSIONS FROM EXISTING COMMERCIAL AND INDUSTRIAL SOLID WASTE INCINERATOR UNITS

§ 62.3660 Identification of plan.

On December 20, 2002, Indiana submitted a plan to control emissions from Commercial and Industrial Solid Waste Incinerators (CISWI). The Indiana plan incorporates by reference substantial portions of 40 CFR part 60, subpart DDDD, Emission Guidelines and Compliance Times for CISWI units built on or before November 30, 1999.

[FR Doc. 03–14871 Filed 6–11–03; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 1

[Docket Number: OST–1999–6189]

RIN 9991–AA38

Organization and Delegation of Powers and Duties; Secretarial Succession

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: This amendment will revise the order of Secretarial succession for the Department, including changes due to recent legislation.

EFFECTIVE DATE: June 12, 2003.

FOR FURTHER INFORMATION CONTACT: Bonnie Angermann-Stucker, Office of the Assistant General Counsel for Environmental, Civil Rights, and General Law, Department of Transportation, 400 Seventh Street, SW., Room 10102, Washington, DC 20590; Telephone: (202) 366–9166.

SUPPLEMENTARY INFORMATION: In 49 CFR 1.26, the order of succession to act as Secretary of Transportation is set forth as follows: The Deputy Secretary, General Counsel, Assistant Secretary for Budget and Programs, Assistant Secretary for Governmental Affairs, Assistant Secretary for Transportation Policy, Assistant Secretary for Aviation and International Affairs, Assistant Secretary for Administration, Associate Deputy Secretary, Under Secretary of Transportation for Security, Federal Aviation Administrator, Federal Aviation Administration Regional Administrator, Southwest Region, Federal Aviation Administration Regional Administrator, Great Lakes Region.

Section 102(e) of title 49, United States Code, authorizes the Secretary to prescribe the order of succession for the Department's Assistant Secretaries and the General Counsel. Section 215 of the Maritime Transportation Security Act of 2002 amended section 102 of title 49, United States Code, by creating the position of Under Secretary of Transportation for Policy, who is designated to act for the Secretary when the Secretary and the Deputy Secretary are absent or unable to serve, or when the offices of Secretary and Deputy Secretary are vacant. Section 215(c) also amends section 102(g) of title 49, United States Code, as redesignated by section 215(a)(1), by deleting the position of Associate Deputy Secretary, on the date that an individual is appointed to the position of Under Secretary of Transportation for Policy. Section 403 of the Homeland Security Act of 2002 transfers the functions of the Transportation Security Administration, including the duties and responsibilities of the Under Secretary of Transportation for Security, from the Department of Transportation to the Department of Homeland Security. We are updating our Secretarial Order of Succession to reflect these statutory changes as well as recent Secretarial decisions concerning the order of succession for Assistant Secretaries of Transportation.

Since this amendment relates to Departmental management, procedures, and practice, notice and comment on this rule are unnecessary under 5 U.S.C. 553(b)(3)(A). In addition, the Secretary finds that there is good cause to make this rule effective upon publication pursuant to 5 U.S.C. 553(d)(2), as a change to internal policy.

Regulatory Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

The final rule is not considered a significant regulatory action under Executive Order 12866 and the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034). There are no costs associated with this rule.

B. Executive Order 13132

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, dated August 4, 1999. This final rule does not have a substantial direct effect on, or sufficient federalism implications for, the States, nor would it limit the policymaking discretion of

the States. Therefore, the consultation and funding requirements do not apply.

C. Executive Order 13084

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13084 (''Consultation and Coordination with Indian Tribal Governments''). Because this final rule does not significantly or uniquely affect the communities of the Indian tribal governments and does not impose substantial direct compliance costs, the funding and consultation requirements of Executive Order 13084 do not apply.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires an agency to review regulations to assess their impact on small entities unless the agency determines that a rule is not expected to have a significant impact on a substantial number of small entities. I hereby certify this final rule, which amends the CFR to reflect a delegation of authority from the Secretary to the FMCSA Administrator and to the Undersecretary of Transportation for Security, will not have a significant economic impact on a substantial number of small businesses.

E. Paperwork Reduction Act

This rule contains no information collection requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

F. Unfunded Mandates Reform Act

The Department has determined that the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply to this rulemaking.

List of Subjects in 49 CFR Part 1

Authority delegations (Government agencies), Organization and functions (Government agencies).

■ In consideration of the foregoing, Part 1 of Title 49, Code of Federal Regulations, is amended as follows:

PART 1—[AMENDED]

■ 1. The authority citation for Part 1 is revised to read as follows:

Authority: 49 U.S.C. 322; 46 U.S.C. 2104(a); 28 U.S.C. 2672; 31 U.S.C. 3711(a)(2); Pub. L. 101–552, 104 Stat. 2736; Pub. L. 106–159, 113 Stat. 1748; Pub. L. 107–71, 115 Stat. 597; Pub. L. 107–295, 116 Stat. 2064 (2002); Pub L. 107–296, 116 Stat. 2135 (2002).

■ 2. In § 1.26 remove paragraphs (a)(2) through (a)(12) and add paragraphs (a)(2) through (a)(11) to read as follows:

§ 1.26 Secretarial succession.

(a) * * *

(2) Under Secretary of Transportation for Policy.

(3) General Counsel.

(4) Assistant Secretary for Aviation and International Affairs.

(5) Assistant Secretary for Transportation Policy.

(6) Assistant Secretary for Budget and Programs.

(7) Assistant Secretary for Governmental Affairs.

(8) Assistant Secretary for Administration.

(9) Federal Aviation Administrator.

(10) Federal Aviation Administration Regional Administrator, Southwest Region.

(11) Federal Aviation Administration Regional Administrator, Great Lakes Region.

* * * * *

Issued this 28th day of May, 2003, in Washington, DC.

Norman Y. Mineta,

Secretary of Transportation.

[FR Doc. 03–14697 Filed 6–11–03; 8:45 am]

BILLING CODE 4190–62–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 575

[Docket No. NHTSA–03–15366]

Consumer Information Regulations; Uniform Tire Quality Grading Standards; Correction

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Correcting amendment.

SUMMARY: On November 15, 1991, the National Highway Traffic Safety Administration (NHTSA) published a final rule amending the treadwear testing procedures of the Uniform Tire Quality Grading Standards (UTQGS) to permit the use of front-wheel drive passenger cars, as well as light trucks, and MPVs. Previously, UTQGS specified testing of tires using only rear-wheel drive passenger cars. The effective date of the amendment was December 16, 1991. However, this new language was later inadvertently deleted in an unrelated amendment.

This document corrects NHTSA's inadvertent deletion of that regulatory language.

DATES: These amendments to the final rule are effective July 14, 2003.

FOR FURTHER INFORMATION CONTACT: Mr. George Feygin, Office of Chief Counsel (Telephone: (202) 366–2992) (Fax: (202) 366–3820), 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: The Uniform Tire Quality Grading Standards (UTQGS) sets forth procedures for treadwear testing in 49 CFR 575.104(e). The purpose of the treadwear grades is to aid consumers in the selection of new tires by informing them of the relative amount of expected tread life for each tire offered for sale. This allows the tire purchaser to compare passenger car tires based on tread life.

On November 15, 1991, the agency amended section 575.104(e)(1)(iv) of the treadwear grading procedures to permit treadwear convoys to consist of front-wheel drive passenger cars and light trucks, vans and multipurpose passenger vehicles (MPVs) (or any combination thereof) (56 FR 57988). Previously, the regulations had specified that only rear-wheel drive passenger cars could be used in the testing to determine treadwear grades.

In drafting the November 15, 1991 amendment, NHTSA inadvertently overlooked the fact that a June 11, 1991 final rule; response to a petition for reconsideration amended the same section of the regulation with a later effective date of September 1, 1993. As a result, the new regulatory language was later inadvertently deleted from the CFR.

NHTSA is publishing this correcting amendment to reinstate regulation language allowing for use of front-wheel drive vehicles, light trucks, and MPVs in treadwear convoys that was inadvertently deleted.

This amendment to the final rule is effective 30 days after the date of publication in the **Federal Register**. Remedying this error on the part of the agency will not impose any additional substantive requirements or burdens on manufacturers. Therefore, NHTSA finds for good cause that any notice of proposed rulemaking and opportunity for comment on these amendments are not necessary.

List of Subjects in 49 CFR Part 575

Consumer protection, Labeling, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

PART 575—CONSUMER INFORMATION REGULATIONS

■ Accordingly, 49 CFR Part 575 is corrected by making the following correcting amendment:

■ 1. The authority citation for Part 575 of Title 49 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

■ 2. Section 575.104 is corrected by revising paragraph (e)(1)(iv) to read as follows:

§ 575.104 Standard No. 104 Uniform tire quality grading standards.

* * * * *

(e) Treadwear grading conditions and procedures—(1) Conditions.

* * * * *

(iv) A test convoy consists of two or four passenger cars, light trucks, or MPVs, each with a GVWR of 10,000 pounds or less.

* * * * *

Issued: June 5, 2003.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 03–14693 Filed 6–11–03; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 020325070–3146–04; I.D. 071299C]

RIN 0648–AM91

Atlantic Highly Migratory Species (HMS); Fishing Vessel Permits; Charter Boat Operations; Temporary Rule

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration, Commerce.

ACTION: Final rule; temporary rule.

SUMMARY: This rule provides a limited time during which Atlantic Tunas General category permit holders may change to the new Atlantic HMS Angling category. This one-time allowance is meant to alleviate confusion resulting from the establishment of this new permit category.

DATES: Effective June 9, 2003, through July 9, 2003. All permit changes must be made by July 9, 2003.

FOR FURTHER INFORMATION CONTACT: Mark Murray-Brown or Brad McHale at 978–281–9260.

SUPPLEMENTARY INFORMATION: A final rule published on December 18, 2002 (67 FR 77434), established a new HMS Angling category vessel permit. This new permit category was meant to allow recreational fishers to fish for, possess, and retain HMS. Further, the final rule specified that Atlantic Tunas General category permits could no longer be used by recreational fishers to fish for, possess, or retain HMS other than bluefin tuna. The final rule also specified that vessel category changes could not be made after a permit is issued for a fishing year.

NMFS has recently received comments that the new permit category and the change to activities formerly allowed under General category rules has caused confusion. Due to this confusion, many permit holders obtained Atlantic Tunas General category vessel permits in error. Due to the unique circumstances of the new HMS Angling permit requirement, this rule provides a 30 day period for Atlantic Tunas General category permit holders to change their permit category and obtain Atlantic HMS Angling category permits. Pending receipt of a new permit, permit holders are subject to the regulations applicable to their currently held permits.

Permit Category Changes

NMFS maintains an automated permitting system for the issuance of Atlantic tunas vessel permits and HMS Angling vessel permits. To make a permit category change under this temporary rule, dial (888) 872–8862 and press ''0'' from the main menu to reach a Customer Service representative.

Classification

This rule is published under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and the Atlantic Tunas Convention Act.

The Assistant Administrator for Fisheries, NOAA (AA), has determined that this rule is consistent with the Magnuson-Stevens Act and other applicable laws.

The Assistant Administrator for Fisheries, NOAA (AA), finds for good cause that providing prior notice and public comment for this temporary rule, as required under 5 U.S.C. 553(b)(B), is impracticable and contrary to the public interest. The Atlantic HMS Fishery opened on June 1, 2003. Over the past week, fishermen notified NMFS that, as a result of confusion regarding the new HMS recreational Angling permit requirement, they had unintentionally applied for and received General category permits. Having General category permits precludes them from participating in recreational tournaments. Tournaments are underway now and are scheduled throughout the summer. Because the fishery has already begun and tournaments are currently taking place, providing prior notice and an opportunity for public comment on allowing fishermen who intended to fish under the new Angling category to change from their incorrect permit category would effectively prevent these fishermen from being allowed to fish.

Because this rule relieves a restriction by allowing an otherwise prohibited permit change, it is not subject to a 30–day delay in effective date pursuant to 5 U.S.C. 553(d)(1).

NMFS will rapidly communicate this action to fishery participants through its FAX network and HMS Information Line.

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable.

This action is not significant within the meaning of Executive Order 12866.

Dated: June, 9, 2003.

William T. Hogarth,

Assistant Adminstrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 03–14863 Filed 6–9–03; 1:12 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 68, No. 113
Thursday, June 12, 2003

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–302–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300 B2 and B4 Series Airplanes; Model A300 B4–600, A300 B4–600R, and A300 F4–600R Series Airplanes (Collectively Called A300–600); Model A310 Series Airplanes; Model A319, A320, and A321 Series Airplanes; Model A330–301, –321, –322, –341, and –342 Series Airplanes; and Model A340 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Supplemental notice of proposed rulemaking; reopening of comment period.

SUMMARY: This document revises an earlier proposed airworthiness directive (AD), applicable to certain Airbus Model A300 B2 and B4 series airplanes; Model A300 B4–600, A300 B4–600R, and A300 F4–600R series airplanes (collectively called A300–600); Model A310 series airplanes; Model A319, A320, and A321 series airplanes; Model A330–301, –321, –322, –341, and –342 series airplanes; and Model A340 series airplanes; that would have required, among other actions, replacement of certain pitot probes with certain new pitot probes. This new action would revise the replacement procedures of the proposed AD by requiring enlargement of the holes for the pitot probes. The actions specified by this new proposed AD are intended to prevent loss or fluctuation of indicated airspeed, which could result in seriously misleading information being provided to the flightcrew. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by July 7, 2003.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–302–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov.* Comments sent via fax or the Internet must contain ''Docket No. 2001–NM–302–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2125; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (*e.g.*, reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2001–NM–302–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–302–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add an airworthiness directive (AD) applicable to certain Airbus Model A300 B2 and B4 series airplanes; Model A300 B4–600, A300 B4–600R, and A300 F4–600R series airplanes (collectively called A300–600); Model A310 series airplanes; Model A319, A320, and A321 series airplanes; Model A330–301, –321, –322, –341, and –342 series airplanes; and Model A340 series airplanes; was published as a notice of proposed rulemaking (NPRM) in the **Federal Register** on December 4, 2002 (67 FR 72115) (hereafter referred to as the ''original NPRM''). That original NPRM would have required, among other actions, replacement of certain pitot probes with certain new pitot probes. That original NPRM was prompted by several cases of loss or fluctuation of indicated airspeed when flying through heavy precipitation or freezing weather conditions. The probable cause has been attributed to the presence of ice crystals and/or water exceeding the weather limits for which the pitot probes are currently certified. Loss or fluctuation of

indicated airspeed, if not corrected, could result in inadvertent excursions outside the normal flight envelope.

Actions Since Issuance of Previous Proposal

Since the issuance of the original NPRM, the Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, has issued a new revision to French airworthiness directive 2001–265(B) R1, dated December 12, 2001, which was one of the French airworthiness directives cited in the original NPRM. This new revision, French airworthiness directive 2001–265(B) R2, dated November 13, 2002, among other things, specifies enlarging the holes for the pitot probes and clarifies the name of a parts manufacturer.

New revisions to two of the service bulletins that were cited in the original NPRM were issued to revise certain procedures to specify the need to enlarge certain holes when replacing the pitot probes. The various revisions to the two service bulletins are described as follows:

• A310–34–2154, Revision 01, dated April 19, 2000, was cited in the original NPRM as an appropriate source of service information. The manufacturer later issued Revision 02, dated November 5, 2001; Revision 03, dated January 25, 2002; Revision 04, dated April 30, 2002; Revision 05, dated July 9, 2002; and Revision 06, dated August 6, 2002. All of these revisions add airplanes in the effectivity of the service bulletin. However, Revision 04 of the service bulletin also includes procedures for enlarging the holes for installing the pitot probes. Revision 07, dated October 8, 2002, which is cited in this supplemental NPRM as the appropriate source of information for Model A310 series airplanes, also adds airplanes to the effectivity of the service bulletin.

• A300–34–6141, dated December 3, 2001, was cited in the original NPRM as an appropriate source of service information. The manufacturer later issued Revision 01, dated February 20, 2002, to add airplanes to the effectivity of the service bulletin. Revision 02, dated April 30, 2002, was issued to provide procedures for enlarging the holes for installing the pitot probes. Revision 03, dated August 27, 2002, which is cited in this supplemental NPRM as the appropriate source of information for Model A300 B4–600R series airplanes, was issued to add airplanes to the effectivity of the service bulletin.

Comments

Due consideration has been given to the comments received in response to the NPRM.

Support for the Proposed NPRM

One commenter, the manufacturer, supports the content of the proposed NPRM.

Request to Correct Name of Parts Supplier

One commenter suggests changing all references throughout the original NPRM from BF Goodrich to Rosemount Aerospace Inc. The commenter states that Rosemount Aerospace is the correct legal name. The FAA concurs with this request and has revised this supplemental NPRM accordingly.

Request To Delay Issuance of Proposal

One commenter states that it has no concerns with the actions required by the original NPRM, and that those actions have been accomplished on all Model A319 and A320 series airplanes. However, since this accomplishment, the commenter has experienced a continuation in airspeed anomalies. For this reason, the commenter states that it will share such data with us, and suggests that we conduct a more extensive review of the experience of additional operators regarding airspeed anomalies before mandating any actions in an AD.

Although we acknowledge the commenter's concern, we do not concur that issuance of this proposed AD should be delayed until we receive additional data regarding airspeed anomalies. However, based on these concerns, we encourage that additional data be submitted to us by the commenter or others. We have determined that to delay this action would be inappropriate since an unsafe condition exists, and that the revised procedure for replacing the pitot probes must be accomplished to ensure continued safety. Additional rulemaking may be considered in the future, if warranted by additional data regarding the identified unsafe condition. No change to this supplemental NPRM is necessary in this regard.

Request To Expand the Applicability of the Proposed NPRM

One commenter is concerned about certain requirements in the original NPRM regarding the pitot probes used on certain airplane models. The commenter asks whether the unsafe condition identified on one manufacturer's product line of pitot probes also exists on the product lines of other manufacturers. The commenter states that one of the manufacturers issued an alert service bulletin regarding unauthorized repairs on certain pitot static tubes found installed on a number of airplane models. The commenter is concerned that additional airplane models also may have similar discrepant pitot probes installed. In addition, if a serious safety issue exists for pitot probes manufactured per the requirements of Technical Standard Order TSO C–16, dated September 1, 1948, and amended April 16, 1951, the applicability of the original NPRM may need to be expanded.

We acknowledge the commenter's concern and may consider additional rulemaking to address that concern in the future on certain airplanes. While there may be merit to the commenter's suggestions, this supplemental NPRM is not the appropriate context in which to evaluate those suggestions. Since the suggested changes would alter the actions currently required by this supplemental NPRM, additional rulemaking would be required. We find that to delay this action would be inappropriate in light of the identified unsafe condition. We do not concur that we should expand the applicability of this supplemental NPRM. No change to the applicability of this supplemental NPRM is necessary in this regard.

Request to Add a Service Bulletin Reference

One commenter states that a reference to Airbus Service Bulletin A320–34–1170, Revision 05, dated September 11, 2000, should be added to certain paragraphs in the original NPRM, for certain airplanes. That service bulletin describes procedures for replacing certain Thales (formerly Sextant) pitot probes with new Rosemount Aerospace pitot probes.

We do not concur for several reasons. First, the commenter did not specify any justification for adding a reference to Airbus Service Bulletin A320–34–1170. Second, French airworthiness directive 2001–265(B) R2 does not include a reference to that service bulletin. In addition, French airworthiness directive 2001–362(B), dated August 8, 2001, states that airplanes equipped with certain pitot probes per Airbus Service Bulletin A320–34–1170 are not applicable to the requirements of that airworthiness directive. No change to this supplemental NPRM is necessary in this regard.

Conclusion

Since these changes expand the scope of the original NPRM, we have determined that it is necessary to reopen the comment period to provide

additional opportunity for public comment.

Cost Impact

We estimate that 559 Model A300 B2 and B4 series airplanes; Model A300 B4–600, A300 B4–600R, and A300 F4–600R series airplanes (collectively called A300–600); Model A310 series airplanes; Model A319, A320, and A321 series airplanes; Model A330–301, –321, –322, –341, and –342 series airplanes of U.S. registry would be affected by this proposed AD. The ''Table—Cost Figures'' shows the estimated cost impact for certain airplanes affected by this proposed AD. The average labor rate is $60 per work hour. ''Table—Cost Figures'' is as follows:

TABLE—COST FIGURES

Model	U.S.-registered airplanes	Work hours (estimated)	Parts cost (estimated)	Total cost (estimated)
A300 B2 and A300 B4	24	Between 3 and 631	Between $120 and $56,669 per airplane (depending on airplane configuration).	Between $300 and $94,529 per airplane (depending on airplane configuration).
A300 B4–600, A300 B4–600R, and A300 F4–600R (collectively called A300–600).	83	3	$5,700	$488,040, or $5,880 per airplane.
A310	46	3	$5,700 or $5,856 (depending on airplane configuration)..	Between $270,480 and $277,656; or $5,880 and $6,036 per airplane (depending on airplane configuration).
A319, A320, and A321	397	3	$6,000	$2,453,460, or $6,180 per airplane.
A330–301, –321, –322, –341, and –342.	9	3	$6,000 or $11,100 (depending on airplane configuration).	Between $55,620 and 101,520; or $6,180 and $11,280 per airplane (depending on airplane configuration).

The cost impact figures in the table above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Currently, there are no Airbus Model A340 series airplanes on the U.S. Register. However, should an affected airplane be imported and placed on the U.S. Register in the future, it would require approximately 3 work hours to accomplish the required actions, at an average labor rate of $60 per work hour. The cost of required parts would be $6,000 or $11,100 (depending on airplane configuration). Based on these figures, the cost impact of this AD would be $6,180 or $11,280 per airplane (depending on airplane configuration).

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority : 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Airbus: Docket 2001–NM–302–AD.

Applicability: The series airplanes, certificated in any category, listed in Table—Applicability:

TABLE—APPLICABILITY

Model and series	Excluding airplanes modified per—	Excluding airplanes equipped with—
A300 B2 and A300 B4	Airbus Modification No. 12236 in service (reference Airbus Service Bulletin A300–34–0166, dated March 30, 2001, in service).	None.

TABLE—APPLICABILITY—Continued

Model and series	Excluding airplanes modified per—	Excluding airplanes equipped with—
A300 B4–600, A300 B4–600R, and A300 F4–600R (collectively called A300–600)	Airbus Modification No. 11858 in production (reference Airbus Service Bulletin A300–34–6116, dated June 19, 1998; Revision 01, dated August 7, 1998; or Revision 02, dated May 25, 2000; in service). or Airbus Modification No. 12223 in service (reference Airbus Service Bulletin A300–34–6141, dated December 3, 2001; or Revision 01, dated February 20, 2002); and on which concurrent incorporation of Airbus repair procedures to enlarge the holes for the pitot probes was accomplished; in service; or Airbus Modification No. 12223 in service (reference Airbus Service Bulletin A300–34–6141, Revision 02, dated April 30, 2002; or Revision 03, dated August 27, 2002; in service).	None.
A310	Airbus Modification No. 11858 in production (reference Airbus Service Bulletin A310–34–2137, dated June 19, 1998; Revision 01, dated August 7, 1998; or Revision 02, dated May 25, 2000; in service); or Airbus Modification No. 12223 in service (reference Airbus Service Bulletin A310–32–2154, dated January 13, 2000; Revision 01, dated April 19, 2000; Revision 02, dated November 05, 2001; or Revision 03, dated January 25, 2002); and on which concurrent incorporation of Airbus repair procedures to enlarge the holes for the pitot probes were accomplished; in service; or Airbus Modification 12223 in service (reference Airbus A310–32–2154, Revision 04, dated April 30, 2002; Revision 05, dated July 9, 2002; Revision 06, dated August 6, 2002; or Revision 07, dated October 8, 2002; in service).	None.
A319, A320, and A321	Airbus Modification 25998 in production (reference Airbus Service Bulletin A320–34–1127, dated April 24, 1997, in service);	Rosemount (formerly BF Goodrich or New Rosemount) pitot probes part number 0851HL per Airbus Modification No. 25578 (reference Airbus Service Bulletin A320–34–1170, dated April 12, 1979; Revision 01, dated March 14, 1980; Revision 02, dated April 10, 1980; Revision 03, dated March 23, 1981; Revision 04, dated October 1, 1981; or Revision 05, dated September 11, 2000.)
A330–301, –321, –322, –341, and –342	Airbus Modification No. 44836 in production (reference Airbus Service Bulletin A330–34–3038, dated November 19, 1996, in service); or Airbus Modification No. 45638 in production (reference Airbus Service Bulletin A330–34–3071, dated December 11, 1998, in service).	None.
A340–211, –212, –213, –311, –312, and –313	Airbus Modification 44836 in production (reference Airbus Service Bulletin A340–34–4042, dated November 19, 1996, in service); or	None.

TABLE—APPLICABILITY—Continued

Model and series	Excluding airplanes modified per—	Excluding airplanes equipped with—
	Airbus Modification 45638 in production (reference Airbus Service Bulletin A340–34–4079, dated December 11, 1998; Revision 01, dated May 27, 1999; or Revision 02, dated October 6, 1999; in service).	

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (i) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent loss or fluctuation of indicated airspeed, which could result in seriously misleading information being provided to the flightcrew, accomplish the following:

For Model A300 B2 and A300 B4 Series Airplanes; Model A300 B4–600, A300 B4–600R, and A300 F4–600R (collectively called A300–600) Series Airplanes; and Model A310 Series Airplanes: Replacement of Pitot Probes With New Pitot Probes

(a) Within 30 months after the effective date of this AD, do the action specified in paragraph (a)(1) or (a)(2) of this AD, as applicable.

(1) For Model A300 B2 and A300 B4 series airplanes; Model A300 B4–600, A300 B4–600R, and A300 F4–600R (collectively called A300–600) series airplanes; and Model A310 series airplanes: Replace the Thales (formerly Sextant) pitot probes from the forward fuselage panel between FR6 and FR7 with new Rosemount (formerly BF Goodrich) pitot probes (including O-rings, gaskets, and nuts), per Airbus Service Bulletin A300–34–0166, dated March 30, 2001 (for Model A300 B2 and B4 series airplanes); Airbus Service Bulletin A300–34–6116, Revision 02, dated May 25, 2000 (for Model A300 B4–600, A300 B4–600R, and A300 F4–600R series airplanes); or Airbus Service Bulletin A310–34–2137, Revision 02, dated May 25, 2000 (for Model A310 series airplanes); as applicable.

(2) For Model A300 B4–600R, A310–203, and A310–304 series airplanes: Replace the Thales (formerly Sextant) pitot probes from the forward fuselage panel between FR6 and FR7 with Thales or Sextant pitot probes (including O-rings, gaskets, and nuts) per Airbus Service Bulletin A300–34–6141, Revision 03, dated August 27, 2002 (for Model A300 B4–600R series airplanes); or Airbus Service Bulletin A310–34–2154, Revision 07, dated October 8, 2002 (for Model A310 series airplanes); as applicable.

For Model A300 B2 and A300 B4 Series Airplanes: Before or Concurrent Requirements

(b) For Model A300 B2 and A300 B4 series airplanes: Before or concurrently with the requirements of paragraphs (a)(2) of this AD, as applicable, replace the Captain's, First Officer's, and standby Badin Crouzet pitot probes in zones 121 and 122 between STA881/FR6 and STA904FR7 with new Badin Crouzet pitot probes (including replacement of O-rings, gaskets, and nuts with new parts; and modification of electrical wiring and equipment of electrical wiring); per Airbus Service Bulletin A300–34–069, Revision 05, dated April 8, 1982, as revised by A300 Service Bulletin Change Notice 5A, dated February 16, 1987.

(c) For Model A300 B2 and A300 B4 series airplanes, manufacturer's serial numbers 002, 004 through 028 inclusive, 030 through 051 inclusive: Before or concurrently with the requirements of paragraph (b) of this AD, modify the relay box of the automatic ground depression systems by doing all the actions specified in the Accomplishment Instructions of Airbus Service Bulletin A300–21–053, Revision 2, dated January 3, 1980; per the service bulletin.

(d) For Model A300 B2 and A300 B4 series airplanes, manufacturer's serial numbers 002, 005 through 007 inclusive, 009 through 014 inclusive, 016, and 017: Before or concurrently with the requirements of paragraph (c) of this AD, do the actions specified in paragraphs (d)(1) and (d)(2) of this AD per Airbus Service Bulletin A300–32–052, dated November 15, 1976.

(1) Clean, restore paint coats, and apply mystik tape 7355 to shock strut (barrel) of the main landing gear.

(2) Replace the lower arm link with a new, reidentified lower arm lock link.

(e) For Model A300 B2 and A300 B4 series airplanes, manufacturer's serial numbers 005 through 007 inclusive, 009 through 012 inclusive: Before or concurrently with the requirements of paragraph (b) of this AD, modify the electronic racks, electrical wiring, and cable routing by accomplishing all the actions specified in the Accomplishment Instructions of Airbus Service Bulletin A300–22–031, dated June 25, 1979, per the service bulletin.

For Model A319, A320, and A321 Series Airplanes: Replacement of Thales Pitot Probes

(f) For Model A319, A320, and A321 series airplanes: Within 24 months after the effective date of this AD: Replace the Thales (formerly Sextant) pitot probes in zones 125, 9DA2, and 122 with new Thales pitot probes, per Airbus Service Bulletin A320–34–1127, dated April 24, 1997.

For Model A330–301, –321, –322, –341, and –342 Series Airplanes: Replacement of Rosemount Pitot Probes

(g) Within 30 months after the effective date of this AD, do the action specified in paragraph (g)(1) or (g)(2) of this AD, as applicable.

(1) For Model A330–301, –321, –322, –341, and –342 series airplanes: Replace the Rosemount pitot probes in zones 121 and 122 with new Rosemount (formerly BF Goodrich) pitot probes, per Airbus Service Bulletin A330–34–3038, dated November 19, 1996.

(2) For Model A330–301 series airplanes: Replace the Rosemount pitot probes in zones 121 and 122 with new Thales (formerly Sextant) pitot probes, per Airbus Service Bulletin A330–34–3071, dated December 11, 1998.

For Model A340–211, –212, –213, –311, –312, and –313 Series Airplanes: Replace the Rosemount Pitot Probes

(h) Within 30 months after the effective date of this AD, do the actions specified in paragraph (h)(1) or (h)(2) of this AD, as applicable.

(1) For Model A340–211, –212, –213, –311, –312, and –313 series airplanes: Replace the Rosemount pitot probes in zones 121 and 122 with new Rosemount (formerly BF Goodrich) pitot probes, per Airbus Service Bulletin A340–34–4042, dated November 19, 1996.

(2) For Model A340–211, –212, and –311 series airplanes: Replace the Rosemount pitot probes in zones 121 and 122 with new Thales (formerly Sextant) pitot probes, per Airbus Service Bulletin A340–34–4079, dated December 11, 1998. This replacement must be done before or concurrently with the requirements of paragraph (h)(1) of this AD.

Alternative Methods of Compliance

(i) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

(j) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a

location where the requirements of this AD can be accomplished.

Note 3: The subject of this AD is addressed in French airworthiness directives 2001–362(B), dated August 8, 2001; and 2001–265(B) R2, dated November 23, 2002.

Issued in Renton, Washington, on June 6, 2003.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–14849 Filed 6–11–03; 8:45 am]

BILLING CODE 4910–13–U

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1500

Public Meeting Concerning Bath Seat Rulemaking

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of public meeting.

SUMMARY: The Consumer Product Safety Commission (''CPSC'' or ''Commission'') will conduct a public meeting on July 28, 2003 (possibly extending to July 29) to receive comments on the CPSC staff briefing package, which recommends that the Commission issue a notice of proposed rulemaking proposing that bath seats meet certain requirements. The Commission invites oral presentations from members of the public with information or comments related to the briefing package. The Commission will consider these presentations in its deliberations on the rulemaking.

DATES: The meeting will begin at 9 a.m. on July 28, 2003 and may continue to July 29 if necessary. Requests to make oral presentations, and 10 copies of the text of the presentation, must be received by the CPSC Office of the Secretary no later than July 21, 2003. Persons making presentations at the meeting should provide an additional 25 copies for dissemination on the date of the meeting.

The Commission reserves the right to limit the number of persons who make presentations and the duration of their presentations. To prevent duplicative presentations, groups will be directed to designate a spokesperson.

Written submissions, in addition to, or instead of, an oral presentation may be sent to the address listed below and will be accepted until August 28, 2003.

ADDRESSES: The meeting will be in room 420 of the East-West Towers Building, 4330 East-West Highway, Bethesda, MD. Requests to make oral presentations, and texts of oral presentations should be captioned ''Bath Seat NPR'' and be mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207, or delivered to that office, room 502, 4330 East-West Highway, Bethesda, Maryland 20814. Requests and texts of oral presentations may also be submitted by facsimile to (301) 504–0127 or by e-mail to *cpsc-os@cpsc.gov*.

FOR FURTHER INFORMATION CONTACT: For information about the purpose or subject matter of this meeting contact Patricia L. Hackett, Project Manager, Directorate for Engineering Sciences, U.S. Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–7577; e-mail: *phackett@cpsc.gov*. For information about the schedule for submission of requests to make oral presentations and submission of texts of oral presentations, contact Rockelle Hammond, Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–6833; fax (301) 504–0127; e-mail *rhammond@cpsc.gov*.

SUPPLEMENTARY INFORMATION:

A. Background

In July 2000, the Commission received a petition from the Consumer Federation of America (''CFA'') and eight other organizations requesting that the Commission issue a rule that would ban bath seats and bath rings (hereafter ''bath seats'') under the Federal Hazardous Substances Act (''FHSA''). The Commission evaluated information from the CFA petition, a staff briefing package and public comments on the petition. On May 30, 2001, the Commission voted to grant the CFA petition and begin rulemaking. On August 1, 2001, the Commission published an advance notice of proposed rulemaking (''ANPR'') in the **Federal Register**. 66 FR 39692. The Commission received ten comments from nine individuals in response to the ANPR.

The staff reviewed the comments and relevant information and forwarded a briefing package to the Commission.

The staff recommends that the Commission issue a notice of proposed rulemaking (''NPR'') that would propose three requirements to address the three main hazard scenarios the staff identified from the reported fatalities.

The staff recommends a stability requirement to address the hazard of bath seats tipping over while in use. The staff has identified 30 fatalities and 80 non-fatal incidents or complaints involving bath seats tipping over that were reported from January 1983 through December 2002. The staff recommends a stability requirement that is essentially the same as the stability requirement in the ASTM voluntary standard but requires testing on a slip-resistant surface.

The staff has identified 3 deaths and 17 non-fatal incidents or complaints involving children who were submerged or entrapped in bath seats that were reported from January 1983 through December 2002. To address this hazard, the staff recommends a performance requirement specifying that the bath seat's leg openings not allow passage of probes that represent the shoulder and torso of an infant. This requirement is identical to one that ASTM approved in March 2003 for inclusion in its revised standard, ASTM F 1967–03.

The staff has identified 19 fatalities and 13 non-fatal incidents or complaints involving children coming out of bath seats that were reported from January 1983 through December 2002. The staff has not been able to develop performance criteria that could effectively address this hazard. The staff recommends a revised warning label to better alert caregivers to the danger of leaving a child alone in a bath seat.

B. The Public Meeting

The purpose of the public meeting is to provide a forum for oral presentations on the CPSC staff briefing package concerning the bath seat NPR.

Participation in the meeting is open. See the **DATES** section of this notice for information on making requests to give oral presentations at the meeting and on making written submissions.

Dated: June 3, 2003.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. 03–14482 Filed 6–11–03; 8:45 am]

BILLING CODE 6355–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[IN156–1b; FRL–7512–5]

Approval and Promulgation of Implementation Plans; Indiana; Plan for Controlling Emissions From Existing Commercial and Industrial Solid Waste Incinerators

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve, through direct final procedure,

the Commercial and Industrial Solid Waste Incineration plan submitted by the Indiana Department of Environmental Management (IDEM). The implementation plan affects selected incineration units and was submitted to EPA in a letter from Janet G. McCabe, IDEM Assistant Commissioner on December 30, 2002, following the required public process. The intent of Indiana's action is to satisfy a Federal requirement to develop a plan as protective as the emission guideline contained in Subpart DDDD, to control emissions from these categories of sources in order to protect public health and reduce exposure to air pollution including several hazardous pollutants. EPA is approving this plan because it fulfills the requirements of sections 111 and 129 of the Clean Air Act.

In the Final Rules section of this **Federal Register**, EPA is approving the State plan for CISWI as a direct final rule without prior proposal because we view this action as noncontroversial and anticipate no adverse comments. If no written adverse comments are received in response to the direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives meaningful written adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. If no adverse written comments are received, the direct final rule will take effect on the date stated in that document and no further activity will be taken on this proposed rule. Any party interested in commenting on this action should do so at this time.

DATES: Comments on this action must be received by July 14, 2003.

ADDRESSES: Written comments should be mailed to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), USEPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

A copy of the Indiana request for revision to the State plan is available for inspection at the above address.

FOR FURTHER INFORMATION CONTACT: John Paskevicz, Environmental Engineer, Regulation Development Section, Air Programs Branch (AR–18J), USEPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6084.

SUPPLEMENTARY INFORMATION:

I. What Action Is EPA Taking Today?

The EPA is proposing to approve a revision to the Indiana plan submitted by the State which demonstrates the Indiana plan will protect the public health of the citizens of Indiana by reducing emissions of air pollutants including some hazardous pollutants from CISWI sources in the State.

II. Where Can I Find More Information About This Proposal and Corresponding Direct Final Rule?

For additional information see the direct final rule published in the rules section of this **Federal Register**.

Authority: 42 U.S.C. 4201–7601q. *et seq.*

Dated: May 29, 2003.

Bharat Mathur,

Acting Regional Administrator, Region 5.

[FR Doc. 03–14872 Filed 6–11–03; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 68, No. 113
Thursday, June 12, 2003

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

WTO Agricultural Safeguard Trigger Levels

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notice of product coverage and trigger levels for safeguard measures provided for in the World Trade Organization (WTO) Agreement on Agriculture.

SUMMARY: This notice lists the updated quantity trigger levels for products, which may be subject to additional import duties under the safeguard provisions of the WTO Agreement on Agriculture. It also includes the relevant period applicable for trigger levels on each of those products.

EFFECTIVE DATE: June 12, 2003.

FOR FURTHER INFORMATION CONTACT: Charles R. Bertsch, Multilateral Trade Negotiations Division, Foreign Agricultural Service, room 5530—South Building, U.S. Department of Agriculture, Washington, DC 20250–1022, telephone at (202) 720–6278, or e-mail *charles.bertsch@usda.gov.*

SUPPLEMENTARY INFORMATION: Article 5 of the WTO Agreement on Agriculture provides that additional import duties may be imposed on imports of products subject to tariffication as a result of the Uruguay Round if certain conditions are met. The agreement permits additional duties to be charged if the price of an individual shipment of imported products falls below the average price for similar goods imported during the years 1986–88 by a specified percentage. It also permits additional duties to be imposed if the volume of imports of an article exceeds the average of the most recent 3 years for which data are available by 5, 10, or 25 percent, depending on the article. These additional duties may not be imposed on quantities for which minimum or current access commitments were made during the Uruguay Round negotiations, and only one type of safeguard, price or quantity, may be applied at any given time to an article.

Section 405 of the Uruguay Round Agreements Act requires that the President cause to be published in the **Federal Register** information regarding the price and quantity safeguards, including the quantity trigger levels, which must be updated annually based upon import levels during the most recent 3 years. The President delegated this duty to the Secretary of Agriculture in Presidential Proclamation No. 6763, QUANTITY BASED SAFEGUARD TRIGGER dated December 23, 1994. The Secretary of Agriculture further delegated the duty to the Administrator of the Foreign Agricultural Service (7 CFR 2.43(a)(2)). The Annex to this notice contains the updated quantity trigger levels.

Additional information on the products subject to safeguards and the additional duties which may apply can be found in subchapter IV of Chapter 99 of the Harmonized Tariff Schedule of the United States and in the Secretary of Agriculture's Notice of Safeguard Action, published in the **Federal Register** at 60 FR 427, January 4, 1995.

Notice: As provided in section 405 of the Uruguay Round Agreements Act, consistent with Article 5 of the Agreement on Agriculture, the safeguard quantity trigger levels previously notified are supeceded by the levels indicated in the Annex to this notice.

Issued at Washington, DC, this 4 day of June.

K.J. Roberts,

Acting Administrator, Foreign Agricultural Service, Annex.

The definitions of these products were provided in the Notice of Safeguard Action published in the **Federal Register,** at 60 FR 427, January 4, 1995.

QUANTITY-BASED SAFEGUARD TRIGGER

Product	Trigger level	Period
Beef	1,186,106 mt	January 1, 2003 to December 31, 2003.
Mutton	17,117 mt	January 1, 2003 to December 31, 2003.
Cream	5,534,383 liters	January 1, 2003 to December 31, 2003.
Evaporated or Condensed Milk	7,455,620 kilograms	January 1, 2003 to December 31, 2003.
Nonfat Dry Milk	4,466,516 kilograms	January 1, 2003 to December 31, 2003.
Dried Whole Milk	3,564,465 kilograms	January 1, 2003 to December 31, 2003.
Dried Cream	7,653 kilograms	January 1, 2003 to December 31, 2003.
Dried Whey/Buttermilk	69,343 kilograms	January 1, 2003 to December 31, 2003.
Butter	13,733,235 kilograms	January 1, 2003 to December 31, 2003.
Butter Oil and Butter Substitutes	10,526,925 kilograms	January 1, 2003 to December 31, 2003.
Dairy Mixtures	4,895,300 kilograms	January 1, 2003 to December 31, 2003.
Blue Cheese	4,218,407 kilograms	January 1, 2003 to December 31, 2003.
Cheddar Cheese	15,619,014 kilograms	January 1, 2003 to December 31, 2003.
American-Type Cheese	21,653,472 kilograms	January 1, 2003 to December 31, 2003.
Edam/Gouda Cheese	8,310,586 kilograms	January 1, 2003 to December 31, 2003.
Italian-Type Cheese	18,789,008 kilograms	January 1, 2003 to December 31, 2003.
Swiss Cheese with Eye Formation	37,381,545 kilograms	January 1, 2003 to December 31, 2003.
Gruyere Process Cheese	8,092,469 kilograms	January 1, 2003 to December 31, 2003.
Lowfat Cheese	3,404,944 kilograms	January 1, 2003 to December 31, 2003.
NSPF Cheese	58,201,906 kilograms	January 1, 2003 to December 31, 2003.
Peanuts	64,394 mt	April 1, 2003 to March 31, 2003.
Peanut Butter/Paste	19,583 mt	January 1, 2003 to December 31, 2003.

QUANTITY-BASED SAFEGUARD TRIGGER—Continued

Product	Trigger level	Period
Raw Cane Sugar	1,358,418 mt	October 1, 2002 to September 30, 2003.
	1,292,926 mt	October 1, 2003 to September 30, 2004.
Refined Sugar and Syrups	46,395 mt	October 1, 2002 to September 30, 2003.
	66,348 mt	October 1, 2003 to September 30, 2004.
Blended Syrups	2 mt	October 1, 2002 to September 30, 2003.
	0 mt	October 1, 2003 to September 30, 2004.
Articles Over 65% Sugar	10 mt	October 1, 2002 to September 30, 2003.
Articles Over 10% Sugar	80,886 mt	October 1, 2002 to September 30, 2003.
	80,886 mt	October 1, 2003 to September 30, 2004.
	0 mt	October 1, 2003 to September 30, 2004.
Sweetened Cocoa Powder	759 mt	October 1, 2002 to September 30, 2003.
	843 mt	October 1, 2003 to September 30, 2004.
Chocolate Crumb	22,524,838 kilograms	January 1, 2003 to December 31, 2003.
Lowfat Chocolate Crumb	460,521 kilograms	January 1, 2003 to December 31, 2003.
Infant Formula Containing Oligosaccharides	125,000 kilograms	January 1, 2003 to December 31, 2003.
Mixes and Doughs	5,364 mt	October 1, 2002 to September 30, 2003.
	5,358 mt	October 1, 2003 to September 30, 2004.
Mixed Condiments and Seasonings	523 mt	October 1, 2002 to September 30, 2003.
	554 mt	October 1, 2003 to September 30, 2004.
Ice Cream	3,832, 905 liters	January 1, 2003 to December 31, 2003.
Animal Feed Containing Milk	5,772 kilograms	January 1, 2003 to December 31, 2003.
Short Staple Cotton	5,273,740 kilograms	September 20, 2002 to September 19, 2003.
	328,762 kilograms	September 20, 2003 to September 19, 2004.
Harsh or Rough Cotton	0 mt	August 1, 2002 to July 31, 2003.
	0 mt	August 1, 2003 to July 31, 2004.
Medium Staple Cotton	740,504 kilograms	August 1, 2002 to July 31, 2003.
	175,688 kilograms	August 1, 2003 to July 31, 2004.
Extra Long Staple Cotton	6,562,505 kilograms	August 1, 2002 to July 31, 2003.
	6,218,181 kilograms	August 1, 2003 to July 31, 2004.
Cotton Waste	0 kilograms	September 20, 2002 to September 19, 2003.
	0 kilograms	September 20, 2003 to September 19, 2004.
Cotton, Processed, Not Spun	1,790 kilograms	September 11, 2002 to September 10, 2003.
	1,042 kilograms	September 11, 2003 to September 10, 2004.

[FR Doc. 03–14550 Filed 6–11–03; 8:45 am]
BILLING CODE 3410–10–M

DEPARTMENT OF AGRICULTURE

Forest Service

Newspapers to be Used for Publication of Legal Notice of Appealable Decisions and Publication of Notice of Proposed Actions for Southern Region; Alabama, Kentucky, Georgia, Tennessee, Florida, Louisiana, Mississippi, Virginia, West Virginia, Arkansas, Oklahoma, North Carolina, South Carolina, Texas, Puerto Rico

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: Deciding Officers in the Southern Region will publish notice of decisions subject to administrative appeal under 36 CFR parts 215 and 217 in the legal notice section of the newspapers listed in the **SUPPLEMENTARY INFORMATION** section of this notice. As provided in 36 CFR part 215.5(a) and 36 CFR part 217.5(d), the public shall be advised through **Federal Register** notice, of the newspaper of record to be utilized for publishing legal notice of decisions. Newspaper publication of notice of decisions is in addition to direct notice of decisions to those who have requested it and to those who have participated in project planning. Responsible Officials in the Southern Region will also publish notice of proposed actions under 36 CFR 215 in the newspapers that are listed in the **SUPPLEMENTARY INFORMATION** section of this notice. As provided in 36 CFR part 215.5(a), the public shall be advised, through **Federal Register** notice, of the newspaper of record to be utilized for publishing notices on proposed actions.

DATES: Use of these newspapers for purposes of publishing legal notice of decisions subject to appeal under 36 CFR parts 215 and 217, and notices of proposed actions under 36 CFR part 215 shall begin on or after the date of this publication.

FOR FURTHER INFORMATION CONTACT: Cheryl Herbster, Regional Appeals Coordinator, Southern Region, Planning, 1720 Peachtree Road, NW, Atlanta, Georgia 30309, Phone: 404–347–5235.

SUPPLEMENTARY INFORMATION: Deciding Officers in the Southern Region will give legal notice of decisions subject to appeal under 36 CFR part 217 and the Responsible Officials in the Southern Region will give notice of decisions subject to appeal under 36 CFR part 215 in the following newspapers which are listed by Forest Service administrative unit. Responsible Officials in the Southern Region will also give notice of proposed actions under 36 CFR part 215 in the following newspapers of record which are listed by Forest Service administrative unit. The timeframe for comment on a proposed action shall be based on the date of publication of the notice of the proposed action in the newspaper of record. The timeframe for appeal shall be based on the date of publication of the legal notice of the decision in the newspaper of record for both 36 CFR parts 215 and 217.

Where more than one newspaper is listed for any unit, the first newspaper listed is the newspaper of record that will be utilized for publishing the legal notice of decisions and calculating timeframes. Secondary newspapers listed for a particular unit are those newspapers the Deciding Officer expects to use for purposes of providing additional notice.

The following newspapers will be used to provide notice.

Southern Region

Regional Forester Decisions

Affecting National Forest System lands in more than one state of the 14 states of the Southern Region and the Commonwealth of Puerto Rico

Atlanta Journal, published daily in Atlanta, GA.

Affecting National Forest System lands in only one state of the 14 states of the Southern Region and the Commonwealth of Puerto Rico or only one Ranger District will appear in the newspaper of record elected by the National Forest of that state or Ranger District.

National Forests in Alabama, Alabama

Forest Supervisor Decisions

Montgomery Advertiser, published daily in Montgomery, AL

District Ranger Decisions

Bankhead Ranger District: *Northwest Alabamian,* published bi-weekly (Wednesday & Saturday) in Haleyville, AL

Conecuh Ranger District: *The Andalusia Star News,* published Daily (Tuesday through Saturday) in Andalusia, AL

Oakmulgee Ranger District: *The Tuscaloosa News,* published daily in Tuscaloosa, AL

Shoal Creek Ranger District: *The Anniston Star,* published daily in Anniston, AL

Talladega Ranger District: *The Daily Home,* published daily in Talladega, Al

Tuskegee Ranger District: *Tuskegee News,* published weekly (Thursday) in Tuskegee, Al

Caribbean National Forest, Puerto Rico

Forest Supervisor Decisions

El Nuevo Dia, published daily in Spanish in San Juan, PR

San Juan Star, published daily in English in San Juan, PR

Chattahoochee-Oconee National Forest, Georgia

Forest Supervisor Decisions

The Times, published daily in Gainesville, GA

District Ranger Decisions

Armuchee Ranger District: *Walker County Messenger,* published bi-weekly (Wednesday & Friday) in LaFayette, GA

Toccoa Ranger District: *The News Observer* (newspaper of record) published bi-weekly (Tuesday & Friday) in Blue Ridge, GA

The Dahlonega Nuggett, (secondary) published weekly (Wednesday) in Dahlonega, GA

Brasstown Ranger District: *North Georgia News,* (newspaper of record) published weekly (Wednesday), in Blairsville, GA

Towns County Herald, (secondary) published weekly (Thursday) in Hiawassee, GA

The Dahlonega Nuggett, (secondary) published weekly (Wednesday) in Dahlonega, GA

Tallulah Ranger District: *Clayton Tribune,* published weekly (Thursday) in Clayton, GA

Chattooga Ranger District: *Northeast Georgian,* (newspaper of record) published bi-weekly (Tuesday & Friday) in Cornelia, GA

Chieftain & Toccoa Record, (secondary) published bi-weekly (Tuesday & Friday) in Toccoa, GA

White County News Telegraph, (secondary) published weekly (Thursday) in Cleveland, GA

The Dahlonega Nuggett, (secondary) published weekly (Thursday) in Dahlonega, GA

Chattooga Ranger District: *Chatsowrth Times,* published weekly (Wednesday) in Chatsworth, GA

Oconee Ranger District: *Eatonton Messenger,* published weekly (Thursday) in Eatonton, GA

Cherokee National Forest, Tennessee

Forest Supervisor Decisions

Knoxville News Sentinel, published daily in Knoxville, TN

District Ranger Decisions

Ocoee-Hiwassee Ranger District: *Polk County News,* published weekly (Wednesday) in Benton, TN

Tellico Ranger District: *Monroe County Advocate,* published tri-weekly (Wednesday, Friday, and Sunday) in Sweetwater, TN

Nolichucky-Unaka Ranger District: *Greeneville Sun,* publsiehd daily (except Sunday) in Greeneville, TN

Watauga Ranger District: *Johnson City Press,* published daily in Johnson City, TN

Daniel Boone National Forest, Kentucky

Forest Supervisor Decisions

Lexington Herald-Leader, published daily in Lexington, KY

District Ranger Decisions

Morehead Ranger District: *Morehead News,* published bi-weekly (Tuesday and Friday) in Morehead, KY

Stanton Ranger District: *The Clay City Times,* published weekly (Thursday) in Stanton, KY

London Ranger District: *The Sentinel-Echo,* published tri-weekly (Monday, Wednesday, and Friday) in London, KY

Somerset Ranger District: *Commonwealth-Journal,* published daily (Sunday through Friday) in Somerset, KY

Stearns Ranger District: *McCreary County Record,* published weekly (Tuesday) in Whitley City, KY

Redbird Ranger District: *Manchester Enterprise,* published weekly (Thursday) in Manchester, KY

National Forests in Florida, Florida

Forest Supervisor Decisions

The Tallahassee Democrat, published daily in Tallahassee, FL

District Ranger Decisions

Apalachicola Ranger District: *Calhourn-Liberty Journal,* published weekly (Wednesday) in Bristol, FL

Lake George Ranger District: *The Ocala Star Banner,* published daily in Ocala, FL

Osceola Ranger District: *The Lake City Reporter,* published daily (Monday–Saturday) in Lake City, FL

Seminole Ranger District: *The Daily Commercial,* published daily in Leesburg, FL

Wakulla Ranger District: *The Tallahassee Democrat,* published daily in Tallahassee, FL

Francis Marion & Sumter National Forest, South Carolina

Forest Supervisor Decisions

The State, published daily in Columbia, SC

District Ranger Decisions

Enoree Ranger District: *Newberry Observer,* published tri-weekly (Monday, Wednesday, and Friday), Newberry, SC

Andrew Pickens Ranger District: *The Daily Journal,* published daily in Seneca, SC

Long Cane Ranger District: *The Augusta Chronicle,* published in Augusta, GA

Wambaw Ranger District: *Post and Courier,* published daily in Charleston, SC

Winterbee Ranger District: *Post and Courier,* published daily in Charleston, SC

George Washington and Jefferson National Forests, Virginia and West Virginia

Forest Supervisor Decisions

Roanoke Times, published daily in Roanoke, VA

District Ranger Decisions

Lee Ranger District: *Shenandoah Valley Herald,* published weekly (Wednesday) in Woodstock, VA
Warm Springs Ranger District: *The Recorder,* published weekly (Thursday) in Monterey, VA
James River Ranger District: *Virginian Review,* published daily (except Sunday) in Convington, VA
Deerfield Ranger District: *Daily News Leader,* published daily in Staunton, VA
Dry River Ranger District: *Daily News Record,* published daily (except Sunday) in Harrisonburg, VA
New River Ranger District: *Roanoke Times,* published daily in Roanoke, VA
Glenwood/Pedlar Ranger District: *Roanoke Times,* published daily in Roanoke, VA
New Castle Ranger District: *Roanoke Times,* published daily in Roanoke, VA
Mount Rogers National Recreation Area: *Bristol Herald Courier,* published in daily in Bristol, VA
Clinch Ranger District: *Kingsport-Times News,* published daily in Kingsport, TN

Kisatchie National Forest, Louisiana

Forest Supervisor Decisions

The Town Talk, published daily in Alexandria, LA

District Ranger Decisions

Caney Ranger Distriction: *Minden Press Herald,* (newspaper of record) published daily in Minden, LA
Homer Guardian Journal, (secondary) published weekly (Wednesday) in Homer, LA
Catahoula Ranger District: *The Town Talk* puublished daily in Alexandria, LA
Calcasieu Ranger District: *The Town Talk,* (newspaper of record) published in daily in Alexandria, LA
The Leesville Ledger, (secondary) published tri-weekly (Tuesday, Friday, and Sunday) in Leesville, LA
Kisatchie Ranger District: *Natchitoches Times:* published daily (Tuesday through Friday and on Sunday)
Winn Ranger District: *Winn Parish Enterprise,* by Wednesday) in Winnfield, LA

Land Between the Lakes National Recreation Area, Kentucky and Tennessee

Area Supervisor Decisions

The Paducah Sun, published daily in Paducah, KY

National Forests in Mississippi, Mississippi

Forest Supervisor Decisions

Clarion–Ledger, published daily in Jackson, MS

District Ranger Decisions

Bienville Ranger District: *Clarion-Ledger,* published daily in Jackson, MS
Chickasawhay Ranger District: *Clarion-Ledger,* published daily in Jackson, MS
Delta Ranger District: *Clarion-Ledger,* published daily in Jackson, MS
De Soto Ranger District: *Clarion Ledger,* published daily in Jackson, MS
Holly Springs Ranger District: *Clarion-Ledger,* published daily in Jackson, MS
Homochitto Ranger District: *Clarion-Ledger,* published daily in Jackson, MS
Tombigbee Ranger District: *Clarion-Ledger,* published daily in Jackson, MS

National Forests in North Carolina, North Carolina

Forest Supervisor Decisions

The Asheville Citizen-Times, published daily in Asheville, NC

District Ranger Decisions

Appalachian Ranger District: *The Asheville Citizen-Times,* published daily in Asheville, NC
Cheoah Ranger District: *Graham Star,* published weekly (Thursday) in Robbinsville, NC
Croatan Ranger District: *The Sun Journal,* published daily (except Saturday) in New Bern, NC
Grandfather Ranger District: *McDowell News,* published daily in Marion, NC
Highlands Ranger District: *The Highlander,* published weekly (mid May–mid Nov, Tues & Fri; mid Nov–mid May, Tues only) in Highlands, NC
Pisgah Ranger District: *The Asheville Citizen-Times,* published daily in Asheville, NC
Tusquitee Ranger District: *Cherokee Scout,* published weekly (Wednesday) in Murphy, NC
Unwharrie Ranger District: *Montgomery Herald,* published weekly (Wednesday) in Troy, NC
Wayah Ranger District: *The Franklin Press,* published bi-weekly (Tuesday and Friday) in Franklin, NC

Ouachita National Forest, Arkansas and Oklahoma

Forest Supervisor Decisions

Arkansas Democrat-Gazette, published daily in Little Rock, AR

District Ranger Decisions

Caddo Ranger District: *Arkansas Democrat-Gazette,* published daily in Little Rock, AR
Fourche Ranger District: *Arkansas Democrat-Gazette,* published daily in Little Rock, AR
Jessieville/Winona Ranger District: *Arkansas Democrat-Gazette,* published daily in Little Rock, AR
Mena/Oden Ranger District: *Arkansas Democrat-Gazette,* published daily in Little Rock, AR
Poteau/Cold Springs Ranger District: *Arkansas Democrat-Gazette,* published daily in Little Rock, AR
Womble Ranger District: *Arkansas Democrat-Gazette,* published daily in Little Rock, AR
Oklahoma Ranger District (Choctaw; Kiamichi; and Tiak): *Tulsa World,* published daily in Tulsa, OK

Ozark-St. Francis National Forest, Arkansas

Forest Supervisor Decisions

The Courier, published daily (Tuesday through Sunday) in Russellville, AR

District Ranger Decisions

Sylamore Ranger District: *Stone County Leader,* published weekly (Tuesday) in Mountain View, AR
Buffalo Ranger District: *Newton County Times,* published weekly in Jasper, AR
Bayou Ranger District: *The Courier,* published daily (Tuesday through Sunday) in Russellville, AR
Pleasant Hill Ranger District: *Johnson County Graphic,* published weekly (Wednesday) in Clarksville, AR
Boston Mountain Ranger District: *Southwest Times Record,* published daily in Fort Smith, AR
Magazine Ranger District: *Southwest Times Record,* published daily in Fort Smith, AR
St. Francis Ranger District: *The Daily World,* published daily (Sunday through Friday) in Helena, AR

National Forests and Grasslands in Texas, Texas

Forest Supervisor Decisions

The Lufkin Daily News, published daily in Lufkin, TX

District Ranger Decisions

Angelina National Forest: *The Lufkin Daily News,* published daily in Lufkin, TX
Davy Crockett National Forest: *The Lufkin Daily News,* published daily in Lufkin, TX
Sabine National Forest: *The Lufkin Daily News,* published daily in Lufkin, TX

Sam Houston National Forest: *The Courier,* published daily in Conroe, TX

Caddo & LBJ National Grasslands: *Denton Record-Chronicle,* published daily in Denton, TX

Dated: June 6, 2003.

Roberta A. Moltzen,

Deputy Regional Forester.

[FR Doc. 03–14842 Filed 6–11–03; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Okanogan and Wenatchee National Forests Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of alternate meeting date.

SUMMARY: An alternate date of June 24 is being proposed for the Okanogan and Wenatchee National Forests Resource Advisory Committee meeting that is scheduled for July 2, 2003. If a quorum is not available for the July 2, 2003 meeting, then this alternate meeting will need to take place. The alternate meeting would be held at the Chelan County Rural Fire District #1 office located at 206 Easy Street, Wenatchee, Washington. The meeting would begin at 9 a.m. and continue until 3 p.m. Committee members would vote on Kittitas County Project selection, and review and select Chelan County projects proposed for Resource Advisory Committee consideration under Title II of the Secure Rural Schools and Community Self-Determination Act of 2000. All Okanogan and Wenatchee National Forests Resource Advisory Committee meetings are open to the public. Interested citizens are welcome to attend. To verify meeting status please call 509–662–4335.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Paul Hart, Designated Federal Official, USDA, Wenatchee National Forest, 215 Melody Lane, Wenatchee, Washington 98801, 509–662–4335.

Dated: June 5, 2003.

Darrel L. Kenops,

Forest Supervisor, Okanogan and Wenatchee National Forests.

[FR Doc. 03–14846 Filed 6–11–03; 8:45 am]

BILLING CODE 3410–11–M

COMMISSION ON CIVIL RIGHTS

Sunshine Act Meeting

AGENCY: Commission on Civil Rights.

DATE AND TIME: Friday, June 20, 2003, 9:30 a.m.

PLACE: U.S. Commission on Civil Rights, 624 Ninth Street, NW., Room 540, Washington, DC 20425.

Agenda

I. Approval of Agenda
II. Approval of Minutes of May 9, 2003 Meeting
III. Closed Meeting to Discuss Personnel Matter
IV. Staff Director's Report
V. Staff Director's Report
VI. State Advisory Committee Report: Civil Rights Concerns in the Metropolitan Washington, DC Area in the Aftermath of the September 11, 2001, Tragedies (Washington, DC, Maryland, and Virginia)
VII. Ten-Year Check-Up: Have Federal Agencies Responded to Civil Rights Recommendations?: Volume III
IX. Briefing on Racial and Cross-National Disparities in Prisoner Incarceration Rates
X. Future Agenda Items

CONTACT PERSON FOR FURTHER INFORMATION: Les Jin, Press and Communications, (202) 376–7700.

Debra A. Carr,

Deputy General Counsel.

[FR Doc. 03–15063 Filed 6–10–03; 4:00 pm]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-552–801]

Notice of Affirmative Preliminary Determination of Critical Circumstances for Voluntary Section A Respondents: Certain Frozen Fish Fillets From the Socialist Republic of Vietnam; Correction.

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice; Correction.

SUMMARY: The Department of Commerce published a notice in the **Federal Register** on May 28, 2003, concerning preliminary critical circumstances for Certain Frozen Fish Fillets from the Socialist Republic of Vietnam. The document contained incorrect information at Paragraph 2.

EFFECTIVE DATE: June 12, 2003.

FOR FURTHER INFORMATION CONTACT: Alex Villanueva or James C. Doyle, AD/CVD Enforcement Group III, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–3208, or (202) 482–0159, respectively.

Critical Circumstances

In the **Federal Register** of May 28, 2003, in 68 FR 31681 in the second column, correct the first sentence of the second paragraph and add an additional sentence to read:

''On January 24, 2003, the Department, pursuant to section 733(e) of the Tariff Act of 1930, as amended (''the Act''), made preliminary determinations regarding critical circumstances for the four mandatory respondents: An Giang Fisheries Import Export Joint Stock Company (''Agifish''), Can Tho Agricultural and Animal Products Import Export Company (''CATACO'') Nam Viet Company Limited (''Nam Viet''), Vinh Hoan Company Limited (''Vinh Hoan''), as well as for the Vietnam-wide entity. We made affirmative preliminary critical circumstances determinations for Nam Viet and the Vietnam-wide entity only, and we did not find a sufficient basis to believe or suspect critical circumstances with respect to Agifish, CATACO, or Vinh Hoan.''

Dated: June 6, 2003.

Barbara Tillman,

Acting Deputy Assistant Secretary for Import Administration, Group III.

[FR Doc. 03–14886 Filed 6–11–03; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570–877]

Notice of Antidumping Duty Order: Lawn and Garden Steel Fence Posts from the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of antidumping duty order.

EFFECTIVE DATE: June 12, 2003.

FOR FURTHER INFORMATION CONTACT: Salim Bhabhrawala or Chris Welty, Group II, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–1784, (202) 482–0186, respectively.

SUPPLEMENTARY INFORMATION:

Case History

On April 25, 2003, the Department of Commerce (the Department) published

its final determination in the antidumping duty investigation of lawn and garden steel fence posts from the People's Republic of China (PRC). *See Notice of Final Determination of Sales at Less Than Fair Value: Lawn and Garden Steel Fence Posts from the People's Republic of China*, 68 FR 20373 (April 25, 2003) (*Final Determination*).

On June 2, 2003, the International Trade Commission (the ITC) notified the Department of its final determination pursuant to section 735(b)(1)(A)(i) of the Tariff Act of 1930, as amended (the Act), that an industry in the United States is materially injured by reason of less-than-fair-value imports of subject merchandise from the PRC.

Scope of Order

For purposes of this order, the products covered consist of all ''U'' shaped or ''hat'' shaped lawn and garden fence posts made of steel and/or any other metal, weighing 1 pound or less per foot, and produced in the PRC. The fence posts included within the scope of this order weigh up to 1 pound per foot and are made of steel and/or any other metal. Imports of these products are classified under the following categories: fence posts, studded with corrugations, knobs, studs, notches or similar protrusions with or without anchor posts and exclude round or square tubing or pipes.

These posts are normally made in two different classes, light and heavy duty. Light duty lawn and garden fence posts are normally made of 14 gauge steel (0.068 inches - 0.082 inches thick), 1.75 inches wide, in 3, 4, 5, or 6 foot lengths. These posts normally weigh approximately 0.45 pounds per foot and are packaged in mini-bundles of 10 posts and master bundles of 400 posts. Heavy duty lawn and garden steel fence posts are normally made of 13 gauge steel (0.082 inches - 0.095 inches thick), 3 inches wide, in 5, 6, 7, and 8 foot lengths. Heavy duty posts normally weigh approximately 0.90 pounds per foot and are packaged in mini-bundles of 5 and master bundles of 200. Both light duty and heavy duty posts are included within the scope of the order.

Imports of these products are classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheading 7326.90.85.35. Fence posts classified under subheading 7308.90 are also included within the scope of the order if the fence posts are made of steel and/or metal.

Specifically excluded from the scope are other posts made of steel and/or other metal including ''tee'' posts, farm posts, and sign posts, regardless of weight.[1] Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under order is dispositive.

Antidumping Duty Order

On June 2, 2003, in accordance with section 735(d) of the Act, the ITC notified the Department of its final determination that the industry in the United States producing lawn and garden steel fence posts is materially injured within the meaning of section 735(b)(1)(A)(i) of the Act by reason of imports of the subject merchandise from the PRC.

Therefore, in accordance with section 736(a)(1) of the Act, the Department will direct the U.S. Bureau of Customs and Border Protection (BCBP) to assess, upon further advice by the Department, antidumping duties equal to the amount by which the normal value of the subject merchandise exceeds the export price or constructed export price of the subject merchandise for all relevant entries of lawn and garden steel fence posts from the PRC, except for (1) subject merchandise exported by China Nanyang Import & Export Corporation, which was produced by Tianjin Shenyuan Steel Company, Ltd. or Tianjin Sunny Steel Products Company, Ltd., and (2) subject merchandise exported by Shanghai BaoSteel International Economic and Trading Co., Ltd., which was produced by Hangzhou Hongyuan Sporting Goods Co., Ltd., both of which received de minimis antidumping duty margins. The antidumping duties will be assessed on all unliquidated entries of lawn and garden steel fence posts subject to this order, entered, or withdrawn from warehouse, for consumption on or after December 4, 2002, the date of publication of the Department's preliminary determination in the **Federal Register**. *See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Lawn and Garden Steel Fence Posts from the People's Republic of China*, 67 FR 72141 (December 4, 2002). Finally, we will instruct BCBP to liquidate without regard to antidumping duties and to refund all cash deposits or bonds posted on subject merchandise exported by China Nanyang Import & Export Corporation, which was produced by Tianjin Shenyuan Steel Company, Ltd. or Tianjin Sunny Steel Products Company, Ltd.

On or after the date of publication of this notice in the **Federal Register**, the BCBP must require, at the same time as importers would normally deposit estimated duties, a cash deposit equal to the estimated weighted-average antidumping duty margins as noted below. The ''PRC-Wide Rate'' rate applies to all non-excluded exporters of subject merchandise not specifically listed. The weighted-average dumping margins are as follows:

Manufacturer/exporter	Weighted-Average Margin (percent)
Hebei Metals and Minerals Imports and Export Corporation	6.60
PRC-Wide Rate	15.61

[1] Tee posts are made by rolling red hot steel into a ''T'' shape. These posts do not have tabs or holes to help secure fencing to them and have primarily farm and industrial uses.

This notice constitutes the antidumping duty order with respect to lawn and garden steel fence posts from the PRC, pursuant to section 736(a) of the Act. Interested parties may contact the Department's Central Records Unit, Room B-099 of the Main Commerce Building, for copies of an updated list of antidumping duty orders currently in effect.

This order is issued and published in accordance with section 736(a) of Act and 19 CFR 351.211(b).

Dated: June 6. 2003.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 03–14887 Filed 6–11–03; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570–601]

Notice of Postponement of Final Results of 2001–2002 Administrative Review: Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

DATES: June 12, 2003.

FOR FURTHER INFORMATION CONTACT: Anthony Grasso at (202) 482–3853 or Andrew Smith at 202–482–1276, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

Statutory Time Limits

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (''the Act''), requires the Department to issue the preliminary results of an administrative review within 245 days after the last day of the anniversary month of an order for which a review is requested and a final determination within 120 days after the date on which the preliminary results are published. However, if it is not practicable to complete the review within the time period, section 751(a)(3)(A) of the Act allows the Department to extend these deadlines to a maximum of 365 days and 180 days, respectively. Further, the Department may extend the time for making a final determination without extending the time for making a preliminary determination, if such final determination is made not later than 300 days after the date on which the preliminary determination is published.

Postponement of Final Results

On July 18, 2002, the Department published a notice of initiation of administrative review of the antidumping duty order on tapered roller bearings and parts thereof, finished and unfinished, from the People's Republic of China, covering the period June 1, 2001 to May 31, 2002 (67 FR 48435). On February 14, 2003, the Department published the preliminary results and partial rescission of this administrative review of TRBs from the PRC. *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China: Preliminary Results of 2000–2001 Administrative Review and Partial Rescission of Review*, 68 FR 7500 (February 14, 2003) (''*Preliminary Results*''). In the *Preliminary Results* we stated that we would make our final determination for the antidumping duty investigation no later than 120 days after the date of publication of the preliminary results (*i.e.*, February 14, 2003).

Due to the complexity of the issues, the Department concludes that these reviews are extraordinarily complicated. *See* Memorandum from Team to Jeffrey May, ''Extension of Time Limit for Final Results,'' dated, June 6, 2003. Therefore, the Department is extending the time limit for completion of these final results to not later than July 16, 2003, in accordance with section 751(a)(3)(A) of the Act.

This extension is in accordance with section 751(a)(3)(A) and 777(i)(1) of the Act.

Dated: June 6, 2003.

Jeffrey May,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 03–14885 Filed 6–11–03; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 030523132–3132–01; I.D. 051603B]

Financial Assistance for Fisheries Disasters; Blue Crab Fishery

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of solicitation for applications.

SUMMARY: This Fisheries Disaster program provides assistance for the blue crab fishing industry which has been adversely affected by reduced harvests and sales of blue crab.

DATES: Your application must be received by close of business 5 p.m. eastern daylight time on June 27, 2003.

ADDRESSES: You can obtain an application package from, NMFS, Southeast Region, State/Federal Liaison Office, 9721 Executive Center Drive N., St. Petersburg, FL 33702; (727–570–5324) or the NMFS, Northeast Region, State, Federal and Constituent Programs Office, One Blackburn Drive, Gloucester, MA 01930; (978–281–9243). You may also obtain forms from: *http://caldera.sero.nmfs.gov/grants/grants.htm*.

FOR FURTHER INFORMATION CONTACT: Ellie Francisco Roche, Chief, State/Federal Liaison Office, NMFS Southeast Region at 727–570–5324; *Ellie.Roche@noaa.gov* or Harry Mears, Director, State, Federal and Constituent Programs Office, NMFS Northeast Region at 978–281–9243; *Harry.Mears@noaa.gov*

SUPPLEMENTARY INFORMATION:

I. Authority

We are soliciting applications for Federal assistance pursuant to Division N, Title V, Section 501 (Fisheries Disasters),of the Consolidated Appropriations Resolution, 2003 Public Law 108–7. Catalog of Federal Domestic Assistance Number: 11.452 Unallied Industry Projects

II. Program Description and Purpose

Assistance, as described below, is being provided to blue crab fisheries affected by reduced harvests and sales of blue crab in proportion to the amount of the catch landed by each State. Funds may be used only for: personal assistance with priority given to food, energy needs, housing assistance, transportation fuel, and other urgent needs; assistance for small businesses including fishermen, fish processors, and related businesses serving the fishing industry; domestic product marketing and seafood promotion; and state seafood testing programs.

III. Funding Availability

Approximately $5.0 million will be available in fiscal year (FY) 2003 for new projects for blue crab fisheries affected by reduced harvests and sales of blue crab in proportion to the amount of the catch landed by each state.

IV. Funding Period and Restrictions

Grants will be awarded for a maximum period of 36 months. Not

more than 5 percent of grant funds may be used for administrative expenses, and no funds may be used for lobbying activities or representational expenses. Construction is not an allowable activity under this program, so applications will not be accepted for construction projects.

V. Cost Sharing

Cost-sharing is not required for this fisheries disaster program.

VI. Eligibility Information

State, local and Indian tribal governments and institutions of higher education are eligible to apply.

VII. Application Information

Content, Form and Submission of Applications

Project applications must include a narrative project description to include (1) documentation that the blue crab fisheries have been affected by reduced harvests and sales of blue crab; (2) documentation of the amount of blue crab landed in the state each year from 1999 to 2001; (3) project goals and objectives which provide a clear presentation of the proposed work; (4) a statement of work (project design and management, including who is responsible, expected products, and participants other than the applicant; (5) methods for carrying out the project; and (6) a summary of the existing state of knowledge related to the project, and contribution and relevance of how the proposed activities will fulfill the purposes of the disaster assistance, as described in Section II above. Project applications must identify the principal participants and include copies of any agreements describing the specific tasks to be performed by those participants. A budget, which includes a detailed breakdown by category of expenditures, with appropriate cost estimates and justifications as they relate to specific aspects of the project, must be provided.

Applications must be one-sided and unbound. You must submit one signed original and two signed copies of the completed application (including supporting information). We will accept neither facsimile applications, nor electronically forwarded applications.

The three copies (one original and two copies) should be submitted to either the NMFS Southeast Regional Office, State/Federal Liaison Office or the NMFS Northeast Regional Office, State, Federal and constituent Programs Office (see **ADDRESSES**). We must receive your application by close of business 5 p.m. eastern daylight time on June 27, 2003. Applications received after that time will not be considered for funding. All incomplete applications will be returned to the applicant.

Applications received after the deadline (see **DATES**) will not be considered for funding. Postmark prior to the end of the receipt period will not be sufficient. Facsimile applications will not be accepted. Generally, applicants will be notified within 45 days from the date of publication of this notice whether their applications have been recommended for funding. It may take up to an additional 30 days for the Grants Office to process the awards. Applicants should consider this processing time in developing requested start dates for their applications.

VIII. Application Review and Selection Process

When we receive applications we will screen them to ensure the following: that they were received by the deadline date (see DATES); that the included SF 424 was signed and dated by an authorized and eligible representative; that the proposal addresses the program purpose; and that a budget, statement of work, milestones, and clearly identified principal investigators and organizations carrying out work under the proposed project are included.

Merit Review - Applications responsive to this solicitation will be evaluated by three individuals having expertise in fisheries disaster funding assistance in order to determine their merit. Reviewers will assess the applications on the criteria listed below, which are weighted equally. Each reviewer will provide individual evaluations of the proposals. Based on these individual evaluations, NMFS, as applicable, will rank the applications received on behalf of the blue crab fisheries fishing industries of each the state.

The following Evaluation Criteria will be applied by the reviewers: (1) Importance/relevance and applicability of the application - how the application relates to the accomplishments of the program's purpose; (2) Technical and/or scientific merit - whether the application has sufficient technical and scientific merit that will adequately address project goals and objectives; (3) Overall qualifications of the applicant - experience with the fishing industry; (4) Project costs - whether the proposed costs are reasonable and consistent with Section II, Program Description and Purpose, and Section III, Funding Availability; and (5) Outreach and education - whether the scope of the applicant's proposed activities are sufficient to disseminate disaster relief information.

Following the merit review, the applications will be provided to the Regional Administrator, Southeast Region or the Regional Administrator, Northeast Region who are the selecting officials for their respective regions. In determining the projects to be recommended for funding, the Regional Administrators will consider the evaluation and rankings of the review panel members, along with the following selection factors: Availability of funding; balance/distribution of funds by geography/institutions/project types; duplication of effort through other projects funded or considered for funding by NOAA or other federal agencies; program priorities and policy factors; applicants' prior award performance; and partnerships with/participation of targeted groups.

IX. Award Administration Information

1. Award Notices - Successful applicants of proposed projects generally will be notified approximately within 30 days from the date of publication of this notice. Projects must not be initiated until a signed award is received from the NOAA Grants Office. Unsuccessful applications will be returned to the applicant.

2. Administrative Requirements - If you are selected to receive a grant award for a project, you must:

- Manage the day-to-day operations of the project, be responsible for the performance of all activities for which funds are granted, and be responsible for the satisfaction of all administrative and managerial conditions imposed by the award.

- Keep records sufficient to document any costs incurred under the award, and allow access to these records for audit and examination by the Secretary of Commerce, the Comptroller General of the United States, or their authorized representatives; and, submit financial status reports (SF 269) to the NOAA Grants Office in accordance with the award conditions.

3. Reporting - Successful applicants will be required to:

- Submit semiannual project status reports on the use of funds and describing the progress of the project and other acceptable deliverable to NMFS within 30 days after the end of each 6–month period. You will submit these reports to the individual identified as the NMFS Program Officer in the funding agreement.

- Submit a final report within 90 days after completion of each project to the NMFS Program Officer. The final report must describe the project and include an evaluation of the work you performed and the results and benefits

in sufficient detail to enable us to assess the success of the completed project. Upon request, we will provide you with formats for the semiannual and final reports.

We are committed to using available technology to achieve the timely and wide distribution of final reports to those who would benefit from this information. Therefore, you are encouraged to submit final reports in electronic format, in accordance with the award terms and conditions. The costs associated with preparing and transmitting your final reports in electronic format to the grant award are allowable expenses.

X. Other Requirements

The Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements contained in the **Federal Register** notice of October 1, 2001 (66 FR 49917), as amended by the **Federal Register** notice published on October 30, 2002 (67 FR 55109), are applicable to this solicitation.

Intergovernmental Review - Applications under this program are subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs. Applicants must contact their State's Single Point of Contact (SPOC) to find out about and comply with the State's process under Executive Order 12372. The names and addresses of the SPOCs are listed in the Office of Management and Budget's home page at *http://www.whitehouse.gov/omb/grants/spoc.html*.

Classification

This action has been determined to be not significant for the purposes of Executive Order 12866.

Prior notice and an opportunity for public comment are not required by the Administrative Procedure Act for rules concerning public property, loans, grants, benefits, and contracts (5 USC 553(a)(2)). Because notice and opportunity for comment are not required pursuant to 5 USC 553 or any other law, the analytical requirements of the Regulatory Flexibility Act (5 USC 601 *et seq.*) are inapplicable. Therefore, a regulatory flexibility analysis is not required and has not been prepared. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the Paperwork Reduction Act, unless that collection displays a currently valid Office of Management and Budget (OMB) control number. This notice contains collection-of-information requirements subject to the Paperwork Reduction Act. The use of Standard Forms 424, and 269 has been approved by OMB under the respective control numbers 0348–0043, and 0348–0039.

Dated: June 6, 2003.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

[FR Doc. 03–14864 Filed 6–11–03; 8:45 am]

BILLING CODE 3510–22–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textiles and Textile Products Produced or Manufactured in the People's Republic of China

June 5, 2003.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner, Bureau of Customs and Border Protection adjusting limits.

EFFECTIVE DATE: June 12, 2003.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the Bureau of Customs and Border Protection Web site at *http://www.customs.gov*. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel Web site at *http://otexa.ita.doc.gov*.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being reduced for carryforward used.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 68 FR 1599, published on January 13, 2002). Also see 67 FR 63891, published on October 16, 2002.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

June 5, 2003.

Commissioner,
Bureau of Customs and Border Protection, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on October 9, 2002, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in China and exported during the twelve-month period which began on January 1, 2003 and extends through December 31, 2003.

Effective on June 12, 2003, you are directed to reduce the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Twelve-month limit [1]
Sublevels in Group I	
317/326	24,701,692 square meters of which not more than 4,589,417 square meters shall be in Category 326.
335	387,745 dozen.
336	194,035 dozen.
338/339	2,334,524 dozen of which not more than 1,783,565 dozen shall be in Categories 338–S/339–S [2].
340	796,599 dozen of which not more than 410,497 dozen shall be in Category 340–Z [3].
341	698,800 dozen of which not more than 426,831 dozen shall be in Category 341–Y [4].
342	279,419 dozen.
347/348	2,297,290 dozen.

Category	Twelve-month limit [1]
351	639,733 dozen.
352	1,669,894 dozen.
361	4,733,235 numbers.
362	7,754,288 numbers.
363	22,632,509 numbers.
443	129,418 numbers.
445/446	280,700 dozen.
447	72,004 dozen.
614	13,495,825 square meters.
636	574,966 dozen.
638/639	2,493,889 dozen.
640	1,377,989 dozen.
641	1,303,838 dozen.
642	375,597 dozen.
644	3,572,431 numbers.
648	1,149,812 dozen.
651	851,427 dozen of which not more than 150,661 dozen shall be in Category 651–B [5].
652	3,200,952 dozen.
666pt. [6]	516,784 kilograms.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2002.
[2] Category 338–S: all HTS numbers except 6109.10.0012, 6109.10.0014, 6109.10.0018 and 6109.10.0023; Category 339–S: all HTS numbers except 6109.10.0040, 6109.10.0045, 6109.10.0060 and 6109.10.0065.
[3] Category 340–Z: only HTS numbers 6205.20.2015, 6205.20.2020, 6205.20.2050 and 6205.20.2060.
[4] Category 341–Y: only HTS numbers 6204.22.3060, 6206.30.3010, 6206.30.3030 and 6211.42.0054.
[5] Category 651–B: only HTS numbers 6107.22.0015 and 6108.32.0015.
[6] Category 666pt.: all HTS numbers except 5805.00.4010, 6301.10.0000, 6301.40.0010, 6301.40.0020, 6301.90.0010, 6302.53.0010, 6302.53.0020, 6302.53.0030, 6302.93.1000, 6302.93.2000, 6303.12.0000, 6303.19.0010, 6303.92.1000, 6303.92.2010, 6303.92.2020, 6303.99.0010, 6304.11.2000, 6304.19.1500, 6304.19.2000, 6304.91.0040, 6304.93.0000, 6304.99.6020, 6307.90.9884, 9404.90.8522 and 9404.90.9522.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.03–14826 Filed 6–11–03; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Request for Public Comments on Commercial Availability Petition under the African Growth and Opportunity Act (AGOA), the United States-Caribbean Basin Trade Partnership Act (CBTPA), and the Andean Trade Promotion and Drug Eradication Act (ATPDEA)

June 9, 2003.

AGENCY: The Committee for the Implementation of Textile Agreements (CITA).

ACTION: Request for public comments concerning a petition for a determination that certain ring spun single yarns, made of micro modal fiber and U.S. pima cotton, cannot be supplied by the domestic industry in commercial quantities in a timely manner under the AGOA, the CBTPA, and the ATPDEA.

SUMMARY: On June 5, 2003, the Chairman of CITA received a petition from Alston and Bird, L.L.P., on behalf of their client, Ge-Ray Fabrics, Inc., alleging that ring spun single yarn of English yarn numbers 30 and 50, containing 50 percent or more, but less than 85 percent, by weight of 0.9 denier or finer micro modal fiber, mixed solely with U.S. origin extra long pima cotton, classified in subheading 5510.30.000 of the Harmonized Tariff Schedule of the United States (HTSUS), cannot be supplied by the domestic industry in commercial quantities in a timely manner. The petition requests that women's and girls' knit blouses, shirts, lingerie, and underwear from such yarns or from U.S.-formed fabrics containing such yarns be eligible for preferential treatment under the AGOA, the CBTPA, and the ATPDEA. CITA hereby solicits public comments on this request, in particular with regard to whether such yarns can be supplied by the domestic industry in commercial quantities in a timely manner. Comments must be submitted by June 27, 2003 to the Chairman, Committee for the Implementation of Textile Agreements, Room 3001, United States Department of Commerce, 14th and Constitution Avenue, NW. Washington, DC. 20230.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-3400.

SUPPLEMENTARY INFORMATION:

Authority: Section 112(b)(5)(B) of the AGOA; Section 213(b)(2)(A)(v)(II) of the CBTPA, as added by Section 211(a) of the CBTPA; Sections 1 and 6 of Executive Order No. 13191 of January 17, 2001; Section 204 (b)(3)(B)(ii) of the ATPDEA, Presidential Proclamation 7616 of October 31, 2002, Executive Order 13277 of November 19, 2002, and the United States Trade Representative's Notice of Further Assignment of Functions of November 25, 2002.

Background

The AGOA, the CBTPA, and the ATPDEA provide for quota- and duty-free treatment for qualifying textile and apparel products. Such treatment is generally limited to products manufactured from yarns and fabrics formed in the United States or a beneficiary country. The AGOA, the CBTPA, and the ATPDEA also provide for quota- and duty-free treatment for apparel articles that are both cut (or knit-to-shape) and sewn or otherwise assembled in one or more beneficiary countries from fabric or yarn that is not formed in the United States, if it has been determined that such fabric or yarn cannot be supplied by the domestic industry in commercial quantities in a timely manner. In Executive Order No. 13191 (66 FR 7271) and pursuant to Executive Order No. 13277 (67 FR 70305) and the United States Trade Representative's Notice of Redelegation of Authority and Further Assignment of

Functions (67 FR 71606), the President delegated to CITA the authority to determine whether yarns or fabrics cannot be supplied by the domestic industry in commercial quantities in a timely manner under the AGOA, the CBTPA, or the ATPDEA. On March 6, 2001, CITA published procedures that it will follow in considering requests (66 FR 13502).

On June 5, 2003, the Chairman of CITA received a petition from Alston and Bird, L.L.P., on behalf of their client, Ge-Ray Fabrics, Inc., alleging that ring spun single yarn of English yarn numbers 30 and 50, containing 50 percent or more, but less than 85 percent, by weight of 0.9 denier or finer micro modal fiber, mixed solely with U.S. origin extra long pima cotton, classified in subheading 5510.30.000 of the HTSUS, for use in women's and girls' knit blouses, shirts, lingerie, and underwear, cannot be supplied by the domestic industry in commercial quantities in a timely manner. It requests quota- and duty-free treatment under the AGOA, the CBTPA, and the ATPDEA for these apparel articles that are both cut (or knit-to-shape) and sewn in one or more AGOA, CBTPA, or ATPDEA beneficiary countries from such yarns or U.S.-formed fabrics containing such yarns.

CITA is soliciting public comments regarding this request, particularly with respect to whether this yarn can be supplied by the domestic industry in commercial quantities in a timely manner. Also relevant is whether other yarns that are supplied by the domestic industry in commercial quantities in a timely manner are substitutable for this yarn for purposes of the intended use. Comments must be received no later than June 27, 2003. Interested persons are invited to submit six copies of such comments or information to the Chairman, Committee for the Implementation of Textile Agreements, room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC 20230.

If a comment alleges that this yarn can be supplied by the domestic industry in commercial quantities in a timely manner, CITA will closely review any supporting documentation, such as a signed statement by a manufacturer of the yarn stating that it produces the yarn that is the subject of the request, including the quantities that can be supplied and the time necessary to fill an order, as well as any relevant information regarding past production.

CITA will protect any business confidential information that is marked business confidential from disclosure to the full extent permitted by law. CITA will make available to the public non-confidential versions of the request and non-confidential versions of any public comments received with respect to a request in room 3100 in the Herbert Hoover Building, 14th and Constitution Avenue, NW., Washington, DC 20230. Persons submitting comments on a request are encouraged to include a non-confidential version and a non-confidential summary.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.03–14958 Filed 6–10–03; 12:47 pm]

BILLING CODE 3510–DR–S

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Notice of Availability of Funds for Parent Drug Corps Program

AGENCY: Corporation for National and Community Service.

ACTION: Notice of funding availability.

SUMMARY: The Corporation for National and Community Service (hereinafter the ''Corporation'') announces the availability of approximately $4,167,000 in grant funds for a nonprofit organization to implement the Parent Drug Corps Program (''the Parent Corps Program''). The purpose of the grant is to fund a national training system and develop a network of volunteer parents engaged in a nationwide substance abuse prevention effort. This estimate is a projection for the guidance of potential applicants. The Corporation is not bound by any estimate in this notice. These funds are available under authority provided in Public Law 108–7, the Omnibus Appropriations Act for fiscal year 2003. The program is a special volunteer program under section 122 of the Domestic Volunteer Service Act of 1973, as amended (42 U.S.C. 4992). Applicable regulations include the uniform administrative requirements for grants and agreements with institutions of higher education, hospitals, and other nonprofit organizations, 45 CFR part 2543.

Eligible nonprofit organizations, including community organizations (faith-based and secular), are encouraged to apply. The Corporation anticipates receiving fewer than ten applications for this solicitation, and anticipates making one grant award under this announcement. The Corporation will make an award covering a period not to exceed three years. The grant proposal must include a proposed budget and proposed activities for the performance period. The Corporation is uncertain as to whether additional funds will be made available for Parent Drug Corps program grants in subsequent years, and has no obligation to provide additional funding beyond the period of this grant. Future funding is contingent on performance and the availability of appropriations.

Note: This Notice is not a complete description of the activities to be funded or of the application requirements. For supplementary information and application guidelines go to the Corporation's Web site at *http://www.cns.gov/whatshot/notices.html.*

DATES: We must receive your application by 5 p.m. on July 14, 2003. We anticipate announcing selections under this Notice no later than August 20, 2003.

ADDRESSES: Submit your application to the following address: Corporation for National and Community Service, Attn: Nancy Talbot, 1201 New York Avenue, NW., Box PDC, Washington, DC 20525. Due to delays in delivery of regular mail to government offices, there is no guarantee that an application sent by regular mail will arrive in time to be considered. We therefore suggest that you use U.S.P.S. priority mail or a commercial overnight delivery service to make sure that you meet the deadline. We will not accept an application that is submitted via email or facsimile.

FOR FURTHER INFORMATION CONTACT: Nancy Talbot at 202–606–5000, ext. 470 (*ntalbot@cns.gov*). The TDD number is 202–565–2799. For a printed copy of this NOFA and the supplementary information and application guidelines (available on-line), contact Ms. Shanika Ratliff at 202–606–5000 ext. 164 (*sratliff@cns.gov*). Upon request, this information will be made available in alternate formats for people with disabilities.

Dated: June 6, 2003.

Robin Dean,

Program Manager, Department of Research and Policy Development.

[FR Doc. 03–14870 Filed 6–12–03; 8:45 am]

BILLING CODE 6050–$$–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary, DoD.

ACTION: Notice to add systems of records.

SUMMARY: The Office of the Secretary of Defense proposes to add a system of

records notice to its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The changes will be effective on July 14, 2003 unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to Directives and Records Division, Directives and Records Branch, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155.

FOR FURTHER INFORMATION CONTACT: Mr. Dan Cragg at (703) 601–4722.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed systems reports, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, were submitted on May 28, 2003, to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: June 4, 2003.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

System name:

Qualification of Civilian Defense Counsel for Military Commissions.

SYSTEM LOCATION:

Chief Defense Counsel, Office of Military Commissions, Office of the General Counsel, Department of Defense, 1600 Defense Pentagon, Washington, DC 20301–1600.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Civilian Defense Counsel seeking admission to practice before Military Commissions in accordance with Military Commission Instruction No. 5.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records relating to the professional qualifications of civilian counsel to practice before Military Commissions. Records include full name of the individual, work address and phone number; Social Security Number; proof of U.S. citizenship; certificate showing good standing with the bar of a qualifying jurisdiction; statement detailing all sanctions or disciplinary actions pending or final, to which he/she has been subject; information required to conduct a background investigation for security clearance; a properly executed 'Authorization for Release of Information' and 'Affidavit and Agreement by Civilian Defense Counsel'; and a one-page resume from the civilian defense counsel that will be provided to the detainees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 5 U.S.C. 113, Secretary of Defense; Military Commission Instruction No. 5, Qualification of Civilian Defense Counsel; section 4C(3)(b) of Military Commission Order No. 1, Procedures for Trials by Military Commissions of Certain Non-United States Citizens in the War Against Terrorism; Military Order of November 13, 2001, Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism; and E.O. 9397 (SSN).

PURPOSE(S):

The information is collected for the purpose of determining whether the individual meets prescribed eligibility criteria to serve as civilian defense counsel for an accused who will appear before a Military Commission.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To accused for purposes of furnishing information on individuals who are qualified to appear before a Military Commission as a civilian defense counsel.

The DoD ''Blanket Routine Uses'' set forth at the beginning of OSD's compilation of systems of records notices apply to this system.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

STORAGE:

RECORDS ARE STORED AS PAPER FILES ONLY.

RETRIEVABILITY:

Retrieved by the individual's full name.

Safeguards:

Records are maintained in a secure, limited access or monitored area. Physical entry by unauthorized persons is restricted by the use of locks, guards, or administrative procedures. Access to personal information is limited to those who require the records to perform their official duties. All personnel whose official duties require access to the information are trained in the proper safeguarding and use of the information.

RETENTION AND DISPOSAL:

Disposition pending. Until the National Archives and Records Administration has approved the retention and disposition of these records, treat records as permanent.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Defense Counsel, Office of Military Commissions, Office of the General Counsel, Department of Defense, 1600 Defense Pentagon, Washington, DC 20301–1600.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Chief Defense Counsel, Office of Military Commissions, Office of the General Counsel, Department of Defense, 1600 Defense Pentagon, Washington, DC 20301–1600.

Requests for information should contain the individual's full name.

RECORDS ACCESS PROCEDURES:

Individuals seeking to access information about themselves contained in this system of records should address written inquiries to the Chief Defense Counsel, Office of Military Commissions, Office of the General Counsel, Department of Defense, 1600 Defense Pentagon, Washington, DC 20301–1600.

Requests for information should contain the individual's full name.

CONTESTING RECORD PROCEDURES:

The OSD rules for accessing records, for contesting contents and appealing initial agency determinations are published in OSD Administrative Instruction 81; 32 CFR part 311; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

The source of record is from the individuals concerned and State Bar Associations.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 03–14815 Filed 6–11–03; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–332–006]

ANR Pipeline Company; Notice of Revised Tariff Sheet

June 6, 2003.

Take notice that on June 4, 2003, ANR Pipeline Company, (ANR) tendered for filing a revised tariff sheet to correct an inadvertent error on proposed Third Revised Tariff Sheet No. 99. The correction preserves the right of ANR and a Shipper to agree that the Shipper shall have the right to change its primary point to another primary point at a discounted rate.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Protest Date: June 16, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–14893 Filed 6–11–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–299–002]

Dominion Cove Point LNG, LP; Notice of Compliance Filing

June 6, 2003.

Take notice that on May 15, 2003, Dominion Cove Point LNG, LP (Cove Point) tendered for filing an explanation of its filed fuel retainage percentages for transportation service.

Cove Point states that its filing provides the additional information it was directed to provide in the Commission's April 30, 2002, order in this proceeding.

Cove Point states that copies of its filing have been served upon all parties to this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's rules and regulations. All such protests must be filed on or before the protest date as shown below. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Protest Date: June 13, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–14895 Filed 6–11–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP03–308–000]

East Tennessee Natural Gas Company; Notice of Filing

June 6, 2003.

Take notice that on June 4, 2003, East Tennessee Natural Gas Company (East Tennessee), 5400 Westheimer Court, Houston, Texas 77056–5310, filed with the Federal Energy Regulatory Commission (Commission) an abbreviated application pursuant to the Natural Gas Act (NGA) to utilize existing vaporization capacity to provide additional vaporization service at its liquefied natural gas (LNG) storage facility located near Kingsport, Tennessee (Kingsport LNG Facility), all as more fully set forth in the application. The application is on file with the Commission and open for public inspection. The filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Specifically, East Tennessee states that its currently effective certificate for the Kingsport LNG Facility authorizes East Tennessee to use 100,000 Mcf/d of the facility's daily vaporization capacity and that the LNG Vaporization Project, the subject of this application, will enable East Tennessee to utilize the full 150,000 Mcf/d of vaporization capacity available at Kingsport LNG Facility to satisfy the daily sendout demands of its storage customers. East Tennessee requests that the Commission act on this filing expeditiously and issue a final certificate granting the requested authorizations on or before September 1, 2003, to allow it to begin using the excess sendout deliverability of the Kingsport LNG Facility in time to meet the demands of the upcoming winter withdrawal season. East Tennessee states that since no construction or facility modifications are required for this project, there will be no environmental or landowner impacts. East Tennessee also states that there will be no new facilities installed pursuant to this application and proposes no rate change. East Tennessee also states that the LNG Vaporization Project will

increase flexibility and improve the reliability of East Tennessee's pipeline and storage facilities by increasing the sendout deliverability of the Kingsport LNG Facility. And finally East Tennesse states that it has executed binding agreements with 17 LNGS shippers for the additional sendout deliverability.

Any questions regarding this application may be directed to Steven E. Tillman, General Manager, Regulatory Affairs, East Tennessee Natural Gas Company, 5400 Westheimer Court, Houston, Texas, 77056–5310 at (713) 627–5113, fax (713) 627–5947.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the below listed comment date, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 385.214 or 385.211) and the regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

Motions to intervene, protests and comments may be filed electronically via the internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Comment Date: June 16, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–14890 Filed 6–11–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–64–002]

Gulf South Pipeline Company, LP; Notice of Compliance Filing

June 6, 2003.

Take notice that on June 4, 2003, Gulf South Pipeline Company, LP (Gulf South) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, the tariff sheets listed on Attachment 1 to the filing, to become effective May 5, 2003.

Gulf South states that this compliance filing includes those tariff sheets necessary to reflect the requirements of the Commission's May 5th Order.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with § 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Protest Date: June 16, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–14896 Filed 6–11–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–221–000]

High Island Offshore System, L.L.C.; Notice of Informal Settlement Conference

June 6, 2003.

Take notice that an informal settlement conference will be convened in this proceeding commencing at 10 a.m. on June 13, 2003, at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, for the purpose of exploring the possible settlement of the above-referenced dockets.

Any party as defined by 18 CFR 385.102(c), or any participant as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, please contact Donald Heydt at (202) 502–8740, *donald.heydt@ferc.gov* or Irene Szopo at (202) 502–8323, *irene.szopo@ferc.gov*.

Magalie R. Salas,

Secretary.

[FR Doc. 03–14894 Filed 6–11–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Compliance Filing and Soliciting Comments, Motions to Intervene, and Protests

June 6, 2003.

Take notice that the following report has been filed with the Commission and is available for public inspection:

a. *Filing Type:* Recreation Plan Update.

b. *Project No:* 2459–140.

c. *Date Filed:* March 28, 2003.

d. *Applicant:* Allegheny Energy Supply Company, LLC (AE).

e. *Name of Project:* Lake Lynn Hydroelectric Project.

f. *Location:* On the Cheat River, in Monongalia County, West Virginia, and Fayette County, Pennsylvania.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Charles L. Simon, 4350 Northern Pike, Monroeville, PA 15146–2841. Phone: (412) 858–1675.

i. *FERC Contact:* Any questions on this notice should be addressed to Shana High at (202) 502–8674 or *shana.high@ferc.gov*.

j. *Deadline for filing comments and/or motions:* July 7, 2003.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Please include the project number (2459–140) on any comments or motions filed.

k. *Description of Proposal:* AE developed an Updated Recreation Plan (plan) to comply with article 417 of the project license. The plan was prepared following an evaluation of facility usage data and addresses recreation use as well as the adequacy of facilities. Specifically, the update addresses safety and security, navigational problems, swimming use, user demand patterns for boating use, primitive camping, and privileged permit leases. AE states that the current recreational facilities are meeting the demonstrated demand for recreation at the project and no changes are proposed in the update.

l. *Locations of the Application:* This filing is available for review and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or call toll-free 1–866–208–3676, or for TTY, contact (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of rules of practice and procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

n. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

o. *Agency Comments:* Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

p. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 03–14892 Filed 6–11–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12033–001]

Symbiotics, LLC.; Notice of Surrender of Preliminary Permit

June 6, 2003.

Take notice that Symbiotics, LLC, permittee for the proposed Helena Valley Hydroelectric Project, has requested that its preliminary permit be terminated. The permit was issued on November 6, 2001, and would have expired on October 31, 2004. The project would have been located on Ten Mile Creek in Lewis and Clark County, Montana.

The permittee filed the request on April 30, 2003, and the preliminary permit for Project No. 12033 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday, or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR part 4, may be filed on the next business day.

Magalie R. Salas,

Secretary.

[FR Doc. 03–14891 Filed 6–11–03; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[OECA–2003–0018; FRL–7512–3]

Agency Information Collection Activities; Submission for OMB Review and Approval; Comment Request; NESHAP for Mercury, ICR Number 0113.08, OMB Number 2060–0097

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: NESHAP for Mercury, OMB Control Number 2060–0097, EPA ICR Number 0113.08. The ICR, which is abstracted below, describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before July 14, 2003.

ADDRESSES: Follow the detailed instructions in **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Learia Williams, Compliance Assessment and Media Programs Division, Office of Compliance, (Mail Code 2223A), Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: (202) 564–4113; fax number: (202) 564–0050; E-mail address: *williams.learia@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On September 26, 2002 (67 FR 60672), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments.

EPA has established a public docket for this ICR under Docket ID Number OECA–2003–0018, which is available for public viewing at the Enforcement and Compliance Docket and Information Center in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket and Information Center is: (202) 566–1514. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at *http://www.epa.gov/edocket.* Use EDOCKET to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. When in the system, select ''search,'' then key in the docket ID number identified above.

Any comments related to this ICR should be submitted to EPA and OMB within 30 days of this notice, and according to the following detailed instructions: (1) Submit your comments to EPA online using EDOCKET (our preferred method), by E-mail to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code: 2201T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and (2) mail your comments to OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

EPA's policy is that public comment, whether submitted electronically or on paper, will be available for public viewing in EDOCKET, as EPA receives them without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment placed in EDOCKET. The entire printed comment, including copyrighted material, will be available in the public docket. Although identified as an item in the official docket, information claimed as CBI, or whose disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public viewing in EDOCKET. For further information about the electronic docket, see EPA's **Federal Register** notice describing the electronic docket at 67 FR 38102 (May 31, 2002), or go to *http://www.epa.gov/edocket.*

Title: NESHAP for Mercury (40 CFR part 61, subpart E) OMB Control Number 2060–0097, EPA ICR Number 0113.08. This is a request to renew an existing, approved collection that is scheduled to expire on June 30, 2003. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB.

Abstract: The NESHAP for Mercury, published at 40 CFR part 61, subpart E, were proposed on December 7, 1971, promulgated on April 6, 1973, and amended on October 14, 1975 and March 19, 1987. These standards apply to all stationary sources which process mercury ore to recover mercury, use mercury chlor-alkali cells to produce chlorine gas and alkali metal hydroxide, and incinerate or dry wastewater treatment plant sludge. Approximately 107 sources (100 sludge incineration and drying plants and seven mercury-cell chlor-alkali plants) are currently subject to the standard; and no additional sources are expected to become subject to the standard in the next three years. Mercury is the pollutant regulated under this standard. This information is being collected to assure compliance with 40 CFR part 61, subpart E.

Owners or operators of affected facilities described must make the following one-time-only reports: Notification of the date of construction or reconstruction; notification of the anticipated and actual dates of startup; notification of any physical or operational change to an existing facility which may increase the regulated pollutant emission rate; notification of the date of the initial performance test; and the results of the initial performance test. These facilities must also maintain records of performance test results, startups, shutdowns, and malfunctions. In order to ensure compliance with the standards, adequate recordkeeping and reporting is necessary. This information enables the Agency to: (1) Identify the sources subject to the standard; (2) ensure initial compliance with emission limits; and (3) verify continuous compliance with the standard. A written report of each period for which hourly monitored parameters fall outside their established limits is required semiannually for mercury-cell chlor-alkali facilities. Reporting and recordkeeping is mandatory under section 114 of the Clean Air Act as amended in 40 CFR part 61. Records of emission test results and other data needed to determine total emissions will be maintained at the source and made available for inspection for a minimum of two years.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number. The OMB Control Numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15, and are identified on the form and/or instrument, if applicable.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 156 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Stationary Mercury processing facilities.

Estimated Number of Respondents: 107.

Frequency of Response: Annually, Semiannually, and initially.

Estimated Total Annual Hour Burden: 17,818.

Estimated Total Annual Cost: $0 includes $0 annualized capital or O&M costs.

Changes in the Estimates: There is a decrease of 8,686 hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. This decrease in burden from the most recently approved ICR is due to a decrease in the number of sources. We have determined that the number of sources currently subject to this standard has decreased based on the most recent data available on the Air Facility System database for NESHAP respondent cost is due to a labor rate change where the rate was increased; however, the total overall cost is reduced due to the smaller number of sources covered by the rule.

Dated: June 5, 2003.

Doreen Sterling,

Acting Director, Collection Strategies Division.

[FR Doc. 03–14874 Filed 6–11–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OECA–2003–0048; FRL–7512–2]

Agency Information Collection Activities; Submission of EPA ICR No. 1060.12 (OMB No. 2060–0038) to OMB for Review and Approval; Comment Request

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: NSPS for Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels (Renewal). This ICR describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before July 14, 2003.

ADDRESSES: Follow the detailed instructions under **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: María Malavé, Compliance Assessment and Media Programs Division, Mail Code 2223A, Office of Compliance, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: (202) 564–7027; fax number: (202) 564–0050; e-mail address: *malave.maria@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On September 26, 2002 (67 FR 60672), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments.

EPA has established a public docket for this ICR under Docket ID Number OECA–2003–0048, which is available for public viewing at the Enforcement and Compliance Docket and Information Center in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket and Information Center is (202) 566–1514. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at *http://www.epa.gov/edocket.* Use EDOCKET to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the docket ID number identified above.

Any comments related to this ICR should be submitted to OMB and EPA within 30 days of this notice, and according to the following detailed instructions: (1) Mail your comments to OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503, and (2) Submit your comments to EPA online using EDOCKET (our preferred method), by e-mail to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, Mail Code 2201T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EDOCKET as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose public disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EDOCKET. The entire printed comment, including copyrighted material, will be available in the public docket. Although identified as an item in the official docket, information claimed as CBI, or whose disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public viewing in EDOCKET. For further information about the electronic docket, *see* EPA's **Federal Register** notice describing the electronic docket at 67 FR 38102 (May 31, 2002), or go to *http://www.epa.gov/edocket.*

Title: NSPS for Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels (40 CFR part 60, subparts AA and AAa) (Renewal) (OMB Control Number 2060–0038, EPA ICR Number 1060.12). This is a request to renew an existing approved collection that is scheduled to expire on June 30, 2003. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB.

Abstract: The New Source Performance Standards (NSPS) for electric arc furnaces were proposed on October 21, 1974 (39 FR 37466) and promulgated on September 23, 1975 (40 CFR 43850). These standards apply to the following affected facilities in steel plants that produce carbon, alloy, or specialty steels: Electric arc furnaces (EAFs) and dust handling systems commencing construction, modification or reconstruction after the date of proposal and on or before August 17, 1983. A review of subpart AA in 1980 resulted in the promulgation of a new standard (NSPS, subpart AAa). The review of NSPS subpart AA found that fugitive emissions capture technology had improved since promulgation of NSPS subpart AA, and that argon-oxygen decarburization (AOD) vessels are a significant source of particulates in specialty steel shops. NSPS, subpart AAa was proposed on August 17, 1983 and promulgated on October 31, 1984. The new standard established new standards applicable to EAFs, AOD vessels, and dust handling systems constructed, modified, or reconstructed after August 17, 1983. On March 2, 1999, the Agency promulgated a direct final rule to amend subparts AA and AAa in response to a petition made by the Common Sense Initiative Council, established under a charter approved pursuant to the Federal Advisory Committee Act (FACA), which approved daily visible emissions observations as an alternative to static pressure monitoring at an EAF with a

direct shell evacuation system, and clarified some definitions.

In general, all NSPS standards require initial notifications, performance tests, and periodic reports. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These notifications, reports, and records are essential in determining compliance, and are required of all sources subject to NSPS. Any owner or operator subject to the provisions of this part shall maintain a file of these measurements, and retain the file for at least two years following the date of such measurements, maintenance reports, and records.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15, and are identified on the form and/or instrument, if applicable.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 303 (rounded) hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Plants with electric arc furnaces, AOD vessels, and dust handling systems that produce carbon, alloy, or specialty steels.

Estimated Number of Respondents: 95.

Frequency of Response: Initial and semiannual.

Estimated Total Annual Hour Burden: 58,195 hours (rounded).

Estimated Total Capital and Operations & Maintenance (O&M) Annual Costs: $289,890 which includes $4,140 annualized capital/startup costs and $285,750 annual O&M costs.

Changes in the Estimates: There is an increase of 9,782 hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. This increase is due to an increase on the number of sources and revisions to the assumptions made to determine the industry burden. A net increase of 5 sources (90 to 95) was determined due to the inclusion of 10 steel forging facilities that use electric arc furnaces to develop intermediate products as affected facilities which offset the decreased (90 to 85) number of minimills. In addition, the increase is due to corrections made to the percentages used to evaluate the burden associated with the different types of activities sources are conducting to comply with the monitoring of stack emissions and the fugitive emissions monitoring requirements.

Dated: June 5, 2003.

Doreen Sterling,

Acting Director, Collection Strategies Division.

[FR Doc. 03–14875 Filed 6–11–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OECA–2003–0042; FRL–7512–1]

Agency Information Collection Activities; Submission of EPA ICR Number 1093.07 (OMB Number 2060–0162) to OMB Review and Approval; Comment Request

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: NSPS for the Surface Coating of Plastic Parts for Business Machines (Renewal). The ICR, which is abstracted below, describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before July 14, 2003.

ADDRESSES: Follow the detailed instructions under **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Leonard Lazarus, Office of Compliance, 2223A, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: (202) 564–6369; fax number: (202) 564–0050; e-mail address: *lazarus.leonard@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On September 26, 2002 (67 FR 60672), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments.

EPA has established a public docket for this ICR under Docket ID Number OECA–2003–0042, which is available for public viewing at the Enforcement and Compliance Docket and Information Center in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket and Information Center is (202) 566–1514. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at *http://www.epa.gov/edocket.* Use EDOCKET to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. When in the system, select ''search,'' then key in the docket ID number identified above.

Any comments related to this ICR should be submitted to OMB and EPA within 30 days of this notice, and according to the following detailed instructions: (1) Mail your comments to OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503, and (2) Submit your comments to EPA online using EDOCKET (our preferred method), by e-mail to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code: 2201T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

EPA's policy is that public comments, whether submitted electronically or on paper, will be available for public viewing in EDOCKET as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment placed in

EDOCKET. The entire printed comment, including copyrighted material, will be available in the public docket. Although identified as an item in the official docket, information claimed as CBI, or whose disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public viewing in EDOCKET. For further information about the electronic docket, *see* EPA's **Federal Register** notice describing the electronic docket at 67 FR 38102 (May 31, 2002), or go to *http://www.epa.gov/edocket.*

Title: NSPS for the Surface Coating of Plastic Parts for Business Machines (40 CFR part 60, subpart TTT) (Renewal) (OMB Control Number 2060–0162, EPA ICR Number 1093.07). This is a request to renew an existing, approved collection that is scheduled to expire on July 31, 2003. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB.

Abstract: Industrial surface coating operations emit volatile organic compounds (VOCs) in quantities that the Administrator believes cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare. Consequently, New Source Performance Standards for the surface coating of plastic parts for business machines were promulgated. VOC emissions from these facilities are the result of operation of the spray booths that apply prime coats, color coats, texture coats or touch-up coats. The standards ensure that owners or operators of these facilities use coatings that contain a low proportion of VOCs, and coating application equipment that provides a high transfer efficiency. In addition, or as an alternative, sources may use control equipment to meet the emission limits. In order to ensure compliance with these standards, adequate recordkeeping is necessary. In the absence of such information, enforcement personnel would be unable to determine whether the standards are being met on a continuous basis, as required by the Clean Air Act. Responses to the collection of information are mandatory. The required information has been determined not to be confidential. However, any information submitted to the Agency for which a claim of confidentiality is made will be safeguarded according to the Agency policies set forth in Title 40, chapter 1, part 2, subpart B—Confidentiality of Business Information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15, and are identified on the form and/or instrument, if applicable.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 35 (rounded) hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Facilities that apply coatings to plastic parts for business machines.

Estimated Number of Respondents: 10.

Frequency of Response: Quarterly and semiannually.

Estimated Total Annual Hour Burden: 978 hours.

Estimated Total Capital and Operations & Maintenance (O&M) Annual Costs: $0.

Changes in the Estimates: There is a decrease of 2,661 hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. This decrease is due to a reduction in the number of sources.

Dated: June 5, 2003.

Doreen Sterling,

Acting Director, Collection Strategies Division.

[FR Doc. 03–14876 Filed 6–11–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7511–3]

Proposed Settlement Agreement

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed settlement agreement; request for public comment.

SUMMARY: In accordance with section 113(g) of the Clean Air Act, as amended, 42 U.S.C. 7413(g), notice is hereby given of a proposed settlement agreement in the following cases filed in the U.S. Court of Appeals for the District of Columbia Circuit: *Engine Manufacturers Ass'n* v. *EPA*, No. 00–1066; *Engine Manufacturers Ass'n, et al.* v. *EPA*, Nos. 01–1129 and 02–1080; *International Truck and Engine Corp., et al.* v. *EPA*, Nos. 00–1510 and 00–1512; *International Truck and Engine Corp.* v. *EPA*, No. 01–1137; and *Engine Manufacturers Ass'n* v. *EPA*, No. 03–1007. These cases concern the U.S. Environmental Protection Agency's (EPA) promulgation of regulations requiring manufacturers of heavy-duty diesel motor vehicle engines and nonroad marine diesel engines to control emissions by meeting not-to-exceed (NTE) emission standards and test procedures, and EPA's issuance of guidance concerning certification of heavy-duty diesel motor vehicle engines.

DATES: Written comments on the proposed settlement agreement must be received by July 14, 2003.

ADDRESSES: Copies of the proposed settlement are available from Phyllis Cochran, Air and Radiation Division (2344A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, (202) 564–7606. Written comments should be sent to Michael Horowitz at the above address.

FOR FURTHER INFORMATION CONTACT: Michael Horowitz at 202–564–5583.

SUPPLEMENTARY INFORMATION: EPA has promulgated regulations in several separate rules requiring manufacturers of heavy-duty diesel motor vehicle engines and nonroad marine engines to control emissions by meeting not-to-exceed (NTE) emission standards and test procedures. 64 FR 73300 (Dec. 29, 1999), 65 FR 59896 (Oct. 6, 2000), 66 FR 5002 (Jan. 18, 2001), and 67 FR 68242 (Nov. 8, 2002). EPA also issued guidance concerning certification of heavy-duty diesel motor vehicle engines, on January 19, 2001. EMA and certain member companies (Manufacturer Parties) filed petitions challenging these rules and guidance. EPA and Manufacturer Parties entered into negotiations and have reached a proposed settlement of this litigation.

The proposed settlement agreement outlines a rulemaking proposal to establish a manufacturer-run in-use testing program for heavy-duty diesel motor vehicles. The proposed settlement also calls for issuance by EPA of guidance regarding implementation of the NTE regulations for heavy-duty diesel motor vehicle

engines and nonroad marine diesel engines, and discusses the elements of a manufacturer-run in-use testing program for nonroad diesel engines.

For a period of thirty (30) days following the date of publication of this notice, EPA will receive written comments relating to the proposed settlement agreement from persons who were not named as parties or interveners to the litigation in question. EPA or the Department of Justice may withdraw or withhold consent to the proposed settlement agreement if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determine, based on any comment which may be submitted, that consent to the settlement agreement should be withdrawn, the terms of the agreement will be affirmed.

Dated: June 4, 2003.

Lisa K. Friedman,

Associate General Counsel, Air and Radiation Law Office.

[FR Doc. 03–14873 Filed 6–11–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7511–9]

Clean Air Scientific Advisory Committee, Science Advisory Board: Clean Air Scientific Advisory Committee (CASAC) Ozone Review Panel; Request for Nominations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Clean Air Scientific Advisory Committee (CASAC) of the Environmental Protection Agency (EPA or Agency) is announcing the reconstitution of the Ozone Review Panel (Panel) and is hereby soliciting nominations for this Panel.

DATES: Nominations should be submitted by July 3, 2003.

ADDRESSES: Nominations should be submitted in electronic format through the Form for Nominating Individuals to Panels of the EPA Science Advisory Board provided on the SAB Web site. The form can be accessed through a link on the blue navigational bar on the SAB Web site, *http://www.epa.gov/sab.* To be considered, all nominations must include the information required on that form. Anyone who is unable to submit nominations via this form may contact Mr. Fred Butterfield, Designated Federal Officer (DFO), EPA Science Advisory Board Staff, at telephone/voice mail: (202) 564–4561; or via e-mail at: *butterfield.fred@epa.gov.*

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing further information regarding this Request for Nominations may contact Mr. Fred Butterfield, DFO, as indicated above. General information concerning the CASAC or the EPA Science Advisory Board can be found at: *http://www.epa.gov/sab.*

SUPPLEMENTARY INFORMATION:

Summary

The Clean Air Scientific Advisory Committee is announcing the reconstitution of its Ozone Review Panel to conduct reviews of the criteria and national ambient air quality standards (NAAQS) for ozone. The CASAC is hereby soliciting nominations to establish the members of the new Panel. The Ozone Review Panel is intended to operate for two to five (nominally, three) years, with a separate charge to be issued to the Panel by the Agency for each review or project.

The CASAC, which comprises seven members appointed by the EPA Administrator, was established by section 109(d)(2) of the Clean Air Act (42 U.S.C. 7409) as an independent scientific advisory committee, in part to provide advice and recommendations related to the Agency's periodic reviews of the criteria and NAAQS required under sections 108 and 109 of the Act. To provide the appropriate range of expertise needed for the review of the criteria and standards for each pollutant for which NAAQS are established, a Panel of experts is typically formed by supplementing the expertise provided by the seven CASAC members themselves. As the Agency is now in the early stages of its review of the criteria and standards for ozone, the Ozone Review Panel is being reconstituted at this time. The CASAC, which is administratively located under the EPA Science Advisory Board, reports to the EPA Administrator. All seven statutory members of the CASAC will also serve as members of the CASAC Ozone Review Panel. Accordingly, once the CASAC Ozone Review Panel completes its deliberations on a given activity, its report will be transmitted directly to the Administrator.

The SAB was established by 42 U.S.C. 4365 to provide independent scientific and technical advice, consultation, and recommendations to the EPA Administrator on the technical basis for Agency positions and regulations. Both the CASAC and the SAB are Federal advisory committees chartered under the Federal Advisory Committee Act (FACA), as amended (5 U.S.C. App.). The CASAC Ozone Review Panel will comply with the provisions of FACA and all appropriate SAB procedural policies, including the process for panel formation described in the Overview of the Panel Formation Process at the Environmental Protection Agency Science Advisory Board, which can found at: *http://www.epa.gov/sab/pdf/ec02010.pdf.*

Nominator's Assessment of Expertise

When submitting nominations to the CASAC Ozone Review Panel, please explicitly indicate the specific areas of expertise the candidate could contribute. The CASAC requests nominees who are recognized, national-level experts in one or more of the following disciplines:

(a) *Atmospheric Science.* Expertise in physical/chemical properties of ozone and other photochemical oxidants, their precursor substances, and atmospheric processes involved in the formation, transport, and degradation of ozone and other photochemical oxidants in the atmosphere, including interaction with global climate and stratospheric ozone. Also, expertise in the evaluation of natural and man-made (anthropogenic) sources and emissions of precursors of tropospheric ozone and other photochemical oxidants, pertinent monitoring/measurement methods for such substances, and spatial/temporal trends in atmospheric concentrations of them.

(b) *Exposure and Risk Assessment/Modeling.* Expertise in measuring human population exposure to ozone and/or in modeling human exposure to ambient and indoor pollutants. Also, expertise in human health risk analysis modeling for ozone or other pollutants causing respiratory and/or other non-cancer health effects.

(c) *Ecological Effects and Resource Valuation.* Expertise in evaluation of: Patterns of exposure to ozone and/or other photochemical oxidants of ornamental and/or agricultural plants and/or natural ecosystems and their components; effects of ozone and other photochemical oxidants on natural ecosystems (especially terrestrial) and their components (both flora and fauna), ranging from biochemical/sub-cellular effects and identification of indicators of pathophysiological effects at the individual plant level, to effects on species and populations, on up to include impacts on increasingly more complex (*e.g.*, landscape) levels of ecosystem organization. Also, expertise in (i) ecosystem risk assessment and (ii)

ecological resource valuation/ economics.

(d) *Dosimetry.* Expertise in conducting and/or evaluation of the dosimetry of animal and human subjects, including identification of factors determining differential patterns of inhalation and/or deposition/uptake in respiratory tract regions that may contribute to differential susceptibility of human population subgroups and animal-to-human dosimetry extrapolations.

(e) *Toxicology.* Expertise in conducting and/or evaluation of experimental laboratory animal studies of the effects of ozone and/or other photochemical oxidants on respiratory and non-respiratory (*e.g.*, lung defense/ other immune function mechanisms) endpoints.

(f) *Controlled Human Exposure.* Expertise in conducting and/or evaluation of controlled human exposure studies of the effects of such substances on healthy and compromised (having pertinent preexisting chronic disease, *e.g.*, asthma) human adults and children, including medical doctors (M.D.) with experience in the clinical treatment of asthma.

(g) *Epidemiology and Biostatistics.* Expertise in epidemiological evaluation of the effects of exposures to ambient ozone and/or other major ambient air co-pollutants (*e.g.*, particulate matter, sulfur dioxide, nitrogen dioxide, carbon monoxide) on human population groups, including effects on mortality and/or morbidity (*e.g.*, respiratory symptoms, lung function decrements, asthma medication use, respiratory-related hospital admissions) endpoints. Also, expertise in associated biostatistics and/or health risk analysis (including Bayesian statistical approaches).

Process and Deadline for Submitting Nominations

Any interested person or organization may nominate qualified individuals to add expertise to the Panel in the areas of expertise described above. Nominations should be submitted in electronic format through the Form for Nominating Individuals to Panels of the EPA Science Advisory Board provided on the SAB Web site. The form can be accessed through a link on the blue navigational bar on the SAB Web site, *http://www.epa.gov/sab.* To be considered, all nominations must include the information required on that form.

Anyone who is unable to submit nominations using this form, and any questions concerning any aspects of the nomination process may contact Mr. Fred Butterfield, DFO, as indicated above in this **Federal Register** notice. Nominations should be submitted in time to arrive no later than July 3, 2003.

To be considered, all nominations must include: (a) A current biography, curriculum vitae (C.V.) or resume, which provides the nominee's background, experience and qualifications for the Panel; and (b) a brief biographical sketch (''biosketch''). The biosketch should be no longer than one page and must contain the following information for the nominee:

(i) Current professional affiliations and positions held;

(ii) Area(s) of expertise, and research activities and interests;

(iii) Leadership positions in national associations or professional publications or other significant distinctions;

(iv) Educational background, especially advanced degrees, including when and from which institutions these were granted;

(v) Service on other advisory committees, professional societies, especially those associated with issues under discussion in this review; and

(vi) Sources of recent (*i.e.*, within the preceding two years) grant and/or other contract support, from government, industry, academia, etc., including the topic area of the funded activity.

Please note that even if there is no responsive information (*e.g.*, no recent grant or contract funding), this must be indicated on the biosketch (by ''N/A'' or ''None''). Incomplete biosketches will result in nomination packages not being accepted.

The EPA Science Advisory Board will acknowledge receipt of the nomination and inform nominators of the panel selected. From the nominees identified by respondents to this **Federal Register** notice (termed the ''Widecast''), SAB Staff will develop a smaller subset (known as the ''Short List'') for more detailed consideration. Criteria used by the SAB Staff in developing this Short List are given at the end of the following paragraph. The Short List will be posted on the SAB Web site at: *http://www.epa.gov/sab,* and will include, for each candidate, the nominee's name and their biosketch. Public comments will be accepted for 21 calendar days on the Short List. During this comment period, the public will be requested to provide information, analysis or other documentation on nominees that the SAB Staff should consider in evaluating candidates for the CASAC Ozone Review Panel.

For the EPA SAB, a balanced review panel is characterized by inclusion of candidates who possess the necessary domains of knowledge, the relevant scientific perspectives (which, among other factors, can be influenced by work history and affiliation), and the collective breadth of experience to adequately address the charge. Public responses to the Short List candidates will be considered in the selection of the Panel, along with information provided by candidates and information gathered by EPA SAB Staff independently on the background of each candidate (*e.g.*, financial disclosure information and computer searches to evaluate a nominee's prior involvement with the topic under review). Specific criteria to be used in evaluating an individual Panel member include: (a) Scientific and/or technical expertise, knowledge, and experience (primary factors); (b) availability and willingness to serve; (c) absence of financial conflicts of interest; (d) scientific credibility and impartiality; and (e) skills working in committees, subcommittees and advisory panels. Ozone Review Panel members will likely be asked to attend two to three public, face-to-face meetings and several public teleconference meetings per year over the anticipated two-to five-year course of the Panel's activity.

Short List candidates will also be required to fill-out the ''Confidential Financial Disclosure Form for Special Government Employees Serving on Federal Advisory Committees at the U.S. Environmental Protection Agency'' (EPA Form 3110–48). This confidential form, which is used by EPA SAB Members and Consultants, allows Government officials to determine whether there is a statutory conflict between that person's public responsibilities (which includes membership on an EPA Federal advisory committee) and private interests and activities, or the appearance of a lack of impartiality, as defined by Federal regulation. The form may be viewed and downloaded from the following URL address: *http://www.epa.gov/sab/pdf/epaform3110–48.pdf.*

Dated: June 5, 2003.

Vanessa T. Vu,

Director, EPA Science Advisory Board Staff Office.

[FR Doc. 03–14877 Filed 6–11–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7511–2]

Proposed Administrative Peripheral Party, Inability To Pay, Cash-out Agreement Under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 Regarding the Meadowlands Plating & Finishing Site, East Rutherford, NJ

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed administrative cash-out agreement and opportunity for public comment.

SUMMARY: The Environmental Protection Agency (''EPA'') is proposing to enter into an administrative settlement to resolve claims under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (''CERCLA''), 42 U.S.C. 9601 *et seq.* In accordance with EPA guidance, notice is hereby given of a proposed administrative settlement pursuant to section 122(h)(1) of CERCLA concerning the Meadowlands Plating & Finishing Site, located in East Rutherford, New Jersey. Notice is being published to inform the public of the proposed settlement and of the opportunity to comment. This settlement is intended to resolve a responsible party's civil liability for response costs incurred by EPA at the Meadowlands Plating & Finishing Site. CERCLA provides EPA the authority to settle certain claims for response costs incurred by the United States with the approval of the Attorney General of the United States.

The proposed settlement provides that Andrew Marchese, will pay $30,000 over 18 months, in reimbursement of response costs incurred by EPA in remediating the Meadowlands Plating & Finishing site in return for a covenant not sue under section 107 of CERCLA from the United States.

DATES: Comments must be provided by July 14, 2003.

ADDRESSES: Comments should be addressed to the U.S. Environmental Protection Agency, Office of Regional Counsel, 290 Broadway—17th Floor, New York, New York 10007–1866 and should refer to: In the Matter of Meadowlands Plating & Finishing Site, Andrew Marchese, Settling Party, U.S. EPA Region II Docket No. CERCLA–02–2003–2010.

FOR FURTHER INFORMATION: U.S. Environmental Protection Agency, Office of Regional Counsel, 290 Broadway—17th Floor, New York, New York 10007–1866, Attention: Patricia C. Hick, Esq. (212) 637–3137.

SUPPLEMENTARY INFORMATION: A copy of the proposed administrative settlement agreement, as well as background information relating to the settlement, may be obtained in person or by mail from EPA's Region II Office of Regional Counsel, 290 Broadway—17th Floor, New York, New York 10007–1866.

Dated: May 30, 2003.

William McCabe,

Acting Director, Emergency & Remedial Response Division.

[FR Doc. 03–14878 Filed 6–11–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7512–9]

New Jersey State Prohibition on Marine Discharges of Vessel Sewage; Final Affirmative Determination

Notice is hereby given that EPA has made a final affirmative determination regarding the petition dated March 27, 2002 that was received from the State of New Jersey. The Regional Administrator, Environmental Protection Agency (EPA), pursuant to section 312(f) of Public Law 92–500, as amended by Public Law 95–217 and Public Law 100–4 (the Clean Water Act), has found that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the waters of the Barnegat Bay, Ocean County, New Jersey. This petition was made by the New Jersey Department of Environmental Protection (NJDEP) in cooperation with the Barnegat Bay Estuary Program, New Jersey Marine Sciences Consortium, Ocean County Planning Board and Ocean County Vocational-Technical School. Upon the receipt of this affirmative determination, NJDEP will completely prohibit the discharge of sewage, whether treated or not, from any vessel in the Barnegat Bay Complex in accordance with section 312(f)(3) of the Clean Water Act and 40 CFR 140.4(a).

On April 1, 2003, EPA published a Receipt of Petition and Tentative Determination and accepted comments from the public for a thirty (30) day period. EPA received letters from the following individuals:

1. A. Jerome Walnut, Chairman, Ocean County Planning Department, P.O. Box 2191, Toms River, New Jersey 08754.

2. Christopher Claus, President, Ocean Nature and Conservation Society, 21 Winding River Drive, Toms River, NJ 08755–5122.

3. David J. McKeon, Assistant Planning Director, Ocean County Planning Board, P.O. Box 2191, Toms River, NJ 08754–2191.

4. William deCamp, Jr., President, Save Barnegat Bay, 906–B Grand Central Avenue, Lavallette, NJ 08735.

5. Angela C. Andersen, South Jersey Coordinator, American Littoral Society, P.O. Box 1306, Tuckerton, NJ 08097.

6. Cindy Zipf, Executive Director, Clean Ocean Action, P.O. Box 305, Highlands, NJ 07732–0505.

EPA received emails from the following individual:

1. Bob Scro, Barnegat Bay Estuary Program Director, Ocean County Planning Department, P.O. Box 2191, Toms River, New Jersey 08754.

Mr. Scro identified some typographical errors made in the original petition submitted to EPA: ''Ocean County Vacation and Technical School'' should read as ''Ocean County Vocational-Technical School'' and ''Ocean County Municipal Utilities Authority'' should read as ''Ocean County Utilities Authorities''. Mr. Scro also commented that since the petition was submitted, a third pumpout boat had been purchased and is servicing boaters in Barnegat Bay. These corrections have been made to this Final Determination.

Several of the commenters expressed support for the establishment of a No Discharge Zone (NDZ) and commented that this Final Determination was an important step in protecting the water quality of Barnegat Bay and its marine resources. The Ocean County Planning Board forwarded a Resolution, passed by the Ocean County Board of Chosen Freeholders, supporting the NDZ. Many of the commenters, especially the Ocean County Planning Board, stated that there were a number of threats to Barnegat Bay including non-point source pollution and that this designation was just one of many action items in the Barnegat Bay Comprehensive Conservation and Management Plan.

The American Littoral Society (ALS) expressed support for the establishment of the NDZ, but asked several questions regarding education, enforcement, water quality improvements and legislative issues. Regarding the issues of education, ALS commented that a mechanism should exist to inform boaters about the requirements of a NDZ. As part of the petition, an education program is outlined. This program is part of the New Jersey Clean Vessel Act Program and the Barnegat

Bay Estuary Program. Regarding the enforcement of the NDZ, the U.S. Coast is responsible for the enforcement and the State of New Jersey has a Memorandum of Understanding, with the Coast Guard, designating the New Jersey State Police as the lead law enforcement agency. The petition submitted to EPA states that the State Police will enforce the boating safety standards and marine sanitation device regulations. ALS raises a question regarding improvements in water quality and whether EPA or NJDEP will attempt to quantify the improvements in water quality as a result if this designation is approved. Certainly, improvements in water quality can be demonstrated through routine ambient sampling. Since there are several ongoing programs to improve the water quality in the estuary, it is difficult to attribute these improvements to a specific program. Currently, EPA is undertaking a national study to evaluate the efficacy of the NDZ designations and will publish the results when they are available. ALS asked whether EPA is aware of a legislative bill that was introduced by Congressman Saxton that would eliminate NDZ restrictions for vessels that use state of art treatment devices. ALS raised certain concerns about this bill and asked if EPA had comments or concerns. In response, EPA is aware of the legislative bill but chooses not to comment on the bill at this time.

No changes to the determination are necessary based on the comments received.

Barnegat Bay is a shallow, lagoon-type estuary characteristic of a back bay system of a barrier island coastline. Barnegat Bay is bordered by two barrier islands, Island Beach and Long Beach Island. These islands are approximately 64 km in total length, are oriented north-south and separate the bay from the Atlantic Ocean. The NDZ will include Barnegat Bay Complex and its navigable tributaries. The boundary lines have been defined for the Point Pleasant Canal, Barnegat Inlet and Egg Harbor Inlet as lines between the following points:

Point Pleasant Canal	40 04.030 N 74 03.281 W	40 04.068 N 74 03.278 W
Barnegat Inlet	Inside South Buoy 39 45.457 N 74 05.519 W	Inside North Buoy 39 45.525 N 74 05.519 W
Egg Harbor Inlet	39 30.521 N 74 18.389 W	39 30.476 N 74 17.322 W

Barnegat Bay provides recreational, economic, and aesthetic benefits to the coastal users of New Jersey. The estuary is productive for shellfish harvesting, recreational activities such as fishing, kayaking, swimming and boating. The bay supports hard clam harvest and blue crab landings. NJDEP Bureau of Marine Water Classification and Analysis has divided the State into 36 Shellfish growing water reaches. The bay complex is identified as Reaches 7 through 13 which are as follows:

Reach 7—Barnegat Bay (Bay Head to Seaweed Point)
Reach 8—Barnegat Bay (Seaweed Point to Mathis Bridge)
Reach 9—Toms River
Reach 10—Barnegat Bay (Mathis Bridge to Forked River)
Reach 11—Barnegat Bay (Forked River to Main Point)
Reach 12—Manahawkin/Little Egg Harbor Bay (Main Point to Long Point)
Reach 13—Long Point to Beach Haven Inlet

Information submitted by the State of New Jersey indicate that there are sixty-six existing pumpout facilities and three pumpout boats available to service vessels throughout the Barnegat Bay Complex. The typical facility is available to the boating community from April through November with hours of operation from 8:00AM until 5:00PM, seven days a week. Seven facilities are available all year. Sixty-three of the existing pumpout facilities are connected to municipal sewage lines. Sewage from these facilities is routed to the Ocean County Utilities Authority where it undergoes secondary treatment. Three pumpout facilities (Ocean Gate Yacht Basin, Ocean Beach South and Causeway Boat Rental and Marina) store their waste in holding tanks for disposal by a septic waste hauler.

According to the State's petition, the vessel population for the waters of Barnegat Bay Complex is approximately 15,587 vessels which are docked at private residences and 12,900 vessels docked or moored at marinas or yacht clubs. The total vessel population is 28,487. The ratio of boats to pumpout facilities has been based on the total number of vessels which could be expected. With sixty-six shore-side pumpout facilities and two pumpout vessel available to boaters, the ratio of docked or moored boats (including transients) is approximately 420 vessels per pumpout. Standard guidelines refer to acceptable ratios falling in the range of 300 to 600 vessels per pumpout. If the EPA calculation is employed (as listed in the guidance manual entitled, ''Protecting Coastal Waters from Vessel and Marina Discharges: A Guide for State and Local Officials—April 1994''), it estimates that twenty-four pumpouts are needed to provide adequate facilities.

Commercial vessels which operate in and around Barnegat Bay are engaged in fishing activities exclusively. Most of the operators will use the pumpout facilities where they dock or obtain fuel. The larger fishing vessels do not operate in the bay, but dock in the vicinity of Barnegat Light and fish the Atlantic Ocean.

The EPA hereby makes a final affirmative determination that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the Barnegat Bay Complex in Ocean County, New Jersey.

Dated: May 30, 2003.

Jane M. Kenny,

Regional Administrator, Region 2.

[FR Doc. 03–14879 Filed 6–11–03; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collections Approved by Office of Management and Budget

June 4, 2003.

SUMMARY: The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collections pursuant to the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid control number.

FOR FURTHER INFORMATION CONTACT: Paul J. Laurenzano, Federal Communications

Commission, 445 12th Street, SW., Washington, DC 20554, (202) 418–1359 or via the Internet at *plaurenz@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0810.
OMB Approval Date: 05/23/2003.
Expiration Date: 05/31/2006.
Title: Procedures for Designation of Eligible Telecommunications Carriers Pursuant to Section 214(e)(6) of the Communications Act of 1934, as amended.
Form No.: N/A.
Estimated Annual Burden: 100 responses; 6,200 total annual hours; 62 hours per respondent.
Needs and Uses: 47 U.S.C. 214(e)(6) states that a telecommunications carrier that is not subject to the jurisdiction of a state may request that the Commission determine whether it is eligible. The Commission must evaluate whether such telecommunications carriers meet the eligibility criteria set forth in the Act. In this Order, the Commission concludes that petitions for designation filed under section 214(e)(6) relating to ''near reservation'' areas will not be considered as petitions relating to tribal lands and as a result, petitioners seeking ETC designation in such areas must follow the procedures out-lined in the Twelfth Report and Order for non-tribal lands prior to submitting a request for designation to this Commission under section 214(e)(6).

OMB Control No.: 3060–0514.
OMB Approval Date: 05/20/2003.
Expiration Date: 05/31/2006.
Title: Section 43.21 (b)—Holding Company Annual Report.
Form No.: N/A.
Estimated Annual Burden: 20 responses; 20 total annual hours; 1 hour per respondent.
Needs and Uses: The SEC 10K form is needed from holding companies of communications common carriers to provide the Commission with the data required to fulfill its regulatory responsibilities and by the public in analyzing the industry. Selected information is compiled and published in the Commission's annual common carrier statistical publication.

OMB Control No.: 3060–0400.
OMB Approval Date: 05/20/2003.
Expiration Date: 05/31/2006.
Title: Tariff Review Plan.
Form No.: N/A.
Estimated Annual Burden: 41 responses; 2,501 total annual hours; 61 hours per respondent.
Needs and Uses: Certain local exchange carriers are required annually to submit Tariff Review Plan in partial fulfillment of cost support material required by 47 CFR part 61. The information used by FCC and the public to determine the justness and reasonableness of rates, terms and conditions in tariffs as required by the Communications Act of 1934, as amended.

OMB Control No.: 3060–0894.
OMB Approval date: 05/09/2003.
Expiration Date: 05/31/2006.
Title: Certification Letter Accounting for Receipt of Federal Support—CC Docket Nos. 96–45 and 96–262.
Form No.: N/A.
Estimated Annual Burden: 51 responses; 153 total annual hours; 3 hours per respondent.
Needs and Uses: The Commission requires states to certify that carriers within the state had accounted for its receipt of federal support in its rates or otherwise used the support pursuant with Section 254 (e).

OMB Control No.: 3060–0755.
OMB Approval Date: 05/09/2003.
Expiration Date: 05/31/2006.
Title: 47 CFR Sections 59.1–59.4—Infrastructure Sharing.
Form No.: N/A.
Estimated Annual Burden: 1,425 responses; 2,325 total annual hours; 1–2 hours per respondent.
Needs and Uses: In CC Docket No. 96–237, the Commission implemented the infrastructure sharing provisions of the Communicaitons Act of 1934, as added by the Telecommunications Act of 1996. Section 259 requires incumbent LECs to file any arrangements showing the conditions under which they share infrastructure per section 259. Section 259 also requires incumbent LECs to provide information on deployments of new services and equipment to qualifying carriers. The Commission also requires incumbent LECs to provide 60 day notices prior to terminating section 259 agreements.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. 03–14814 Filed 6–11–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. AUC–03–54–B (Auction No. 54); DA 03–1547]

Closed Broadcast Auction No. 54 Construction Permits for New Broadcast Stations Scheduled for July 23, 2003; Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments and Other Auction Procedures

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document announces the procedures, minimum opening bids, and revised inventory for the upcoming auction of construction permits for new full power television (TV), low power television (LPTV), and FM broadcast stations (''Auction No. 54'') scheduled for July 23, 2003. This document is intended to familiarize prospective bidders with the procedures and minimum opening bids for this auction.

DATES: Auction No. 54 is scheduled to begin on July 23, 2003.

FOR FURTHER INFORMATION CONTACT: Auctions and Industry Analysis Division: Kenneth Burnley, Legal Branch at (202) 418–0660; Lyle Ishida, Operations Branch at (202) 418–0660 or Linda Sanderson, Operations Branch at (717) 338–2888. Audio Division: Lisa Scanlan at (202) 418–2700. Video Division: Shaun Maher at (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a summary of the *Auction No. 54 Procedures Public Notice* released on May 12, 2003. The complete text of the *Auction No. 54 Procedures Public Notice*, including attachments, is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC, 20554. The *Auction No. 54 Procedures Public Notice* may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.* This document is also available on the Internet at the Commission's Web site: *http://wireless.fcc.gov/auctions/54/.*

I. General Information

A. Introduction

1. The *Auction No. 54 Procedures Public Notice* announces the procedures and minimum opening bids for the upcoming auction of construction permits for new full power television (TV), low power television (LPTV), and FM broadcast stations (''Auction No. 54''), scheduled for July 23, 2003. On April 11, 2003, in accordance with the Balanced Budget Act of 1997, the Media Bureau (''MB'') and the Wireless Telecommunications Bureau (''WTB'') (collectively, the ''Bureaus'') released the *Auction No. 54 Comment Public Notice*, 68 FR 19816 (April 22, 2003), seeking comment on the establishment of reserve prices and/or minimum opening bids and other procedures for

Auction No. 54. The Bureaus received no comments in response to the *Auction No. 54 Comment Public Notice*.

i. Construction Permits To Be Auctioned

2. Auction No. 54 will include construction permits for one TV, two LPTV, and four FM broadcast stations. These broadcast stations are the subject of pending, mutually exclusive FCC Form 301 or Form 346 applications for construction permits for the referenced broadcast services, for which the Commission has not approved a settlement agreement that obviates the need for an auction. Pursuant to the *Broadcast First Report and Order*, 63 FR 48615 (September 11, 1998), participation in this auction is limited to the applicants identified in Attachment A of the *Auction No. 54 Procedures Public Notice*. All applications within a mutually exclusive applicant group (''MX Group'') are directly mutually exclusive with one another, and therefore a single construction permit will be auctioned for each MX Group identified in Attachment A of the *Auction No. 54 Procedures Public Notice*. Applicants will be eligible to bid on only those construction permits selected on their previously filed FCC Form 301 or Form 346. The minimum opening bids and upfront payments for these broadcast construction permits are also included in Attachment A of the *Auction No. 54 Procedures Public Notice*.

3. As stated in the *Broadcast First Report and Order*, all pending mutually exclusive applications for broadcast services must be resolved through a system of competitive bidding. When two or more short-form applications (FCC Form 175) are accepted for filing within an MX Group, mutual exclusivity exits for auction purposes. Once mutual exclusivity exists for auction purposes, even if only one applicant within an MX Group submits an upfront payment, that applicant is required to submit a bid in order to obtain the construction permit.

B. Rules and Disclaimers

i. Relevant Authority

4. Prospective bidders must familiarize themselves thoroughly with the Commission's rules relating to broadcast auctions, contained in title 47, part 73 of the Code of Federal Regulations. Prospective bidders must also be thoroughly familiar with the procedures, terms and conditions (collectively, ''terms'') contained in the *Auction No. 54 Procedures Public Notice;* the *Auction No. 54 Comment Public Notice, the Broadcast First Report and Order*, the *Broadcast Reconsideration Order*, 64 FR 24523 (May 7, 1999), and the *New Entrant Bidding Credit Reconsideration Order*, 64 FR 44856 (August 18, 1999). Potential bidders must also familiarize themselves with part 1, subpart Q of the Commission's rules concerning competitive bidding proceedings. In particular, broadcasters should also familiarize themselves with the Commission's recent amendments and clarifications to its general competitive bidding rules.

5. The terms contained in the Commission's rules, relevant orders and public notices are not negotiable. The Commission may amend or supplement the information contained in our public notices at any time, and will issue public notices to convey any new or supplemental information to bidders. It is the responsibility of all prospective bidders to remain current with all Commission rules and with all public notices pertaining to this auction. Copies of most Commission documents, including public notices, can be retrieved from the FCC Auctions Internet site at *http://wireless.fcc.gov/auctions*. Additionally, documents are available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC, 20554, or may be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com*. When ordering documents from Qualex, please provide the appropriate FCC document number (for example, FCC 98–194 for the *Broadcast First Report and Order* and FCC 99–74 for the *Broadcast Reconsideration Order*).

ii. Prohibition of Collusion

6. To ensure the competitiveness of the auction process, the Commission's rules prohibit applicants for the same market from communicating with each other during the auction about bids, bidding strategies, or settlements. This prohibition begins at the short-form application filing deadline and ends at the down payment deadline after the auction. Bidders competing for construction permits in the same market are encouraged not to use the same individual as an authorized bidder. A violation of the anti-collusion rule could occur if an individual acts as the authorized bidder for two or more competing applicants, and conveys information concerning the substance of bids or bidding strategies between the bidders he or she is authorized to represent in the auction. A violation could similarly occur if the authorized bidders are different individuals employed by the same organization (*e.g.*, law firm or consulting firm). In such a case, at a minimum, applicants should certify on their applications that precautionary steps have been taken to prevent communication between authorized bidders and that applicants and their bidding agents will comply with the anti-collusion rule.

7. However, the Bureaus caution that merely filing a certifying statement as part of an application will not outweigh specific evidence that collusive behavior has occurred, nor will it preclude the initiation of an investigation when warranted. The Commission's anti-collusion rules allow applicants to form certain agreements during the auction, provided the applicants have not applied for construction permits in the same market. In Auction No. 54, for example, the rule would apply to any applicants bidding for the same market (*i.e.*, Victor, ID, MX Groups FM2 and FM3). Therefore, applicants that apply to bid for any construction permit in the same market would be precluded from communicating after filing the FCC Form 175 application with any other applicant for a construction permit in that same market. However, all applicants may enter into bidding agreements *before* filing their FCC Form 175, as long as they disclose the existence of the agreement(s) in their FCC Form 175. If parties agree in principle on all material terms prior to the short-form filing deadline, those parties must be identified on the short-form application pursuant to § 1.2105(c), even if the agreement has not been reduced to writing. If the parties have not agreed in principle by the filing deadline, an applicant would not include the names of those parties on its application, and may not continue negotiations with other applicants for the same market. By signing their FCC Form 175 applications, applicants are certifying their compliance with §§ 1.2105(c) and 73.5002.

8. In addition, § 1.65 of the Commission's rules requires an applicant to *maintain* the accuracy and completeness of information furnished in its pending application and to notify the Commission within 30 days of any substantial change that may be of decisional significance to that application. Thus, § 1.65 and 1.2105 require an auction applicant to notify the Commission of any violation of the anti-collusion rules upon learning of

such violation. Bidders therefore are required to make such notification to the Commission immediately upon discovery.

9. A summary listing of documents from the Commission and the Bureaus addressing the application of the anti-collusion rules may be found in Attachment F of the *Auction No. 54 Procedures Public Notice*.

iii. Due Diligence

10. Potential bidders are reminded that they are solely responsible for investigating and evaluating all technical and market place factors that may have a bearing on the value of the broadcast facilities in this auction. The FCC makes no representations or warranties about the use of this spectrum for particular services. Applicants should be aware that an FCC auction represents an opportunity to become an FCC permittee in the broadcast service, subject to certain conditions and regulations. An FCC auction does not constitute an endorsement by the FCC of any particular service, technology, or product, nor does an FCC construction permit or license constitute a guarantee of business success. Applicants should perform their individual due diligence before proceeding as they would with any new business venture.

11. Potential bidders are strongly encouraged to conduct their own research prior to Auction No. 54 in order to determine the existence of pending proceedings that might affect their decisions regarding participation in the auction. Participants in Auction No. 54 are strongly encouraged to continue such research during the auction.

12. Bidders are solely responsible for identifying associated risks and for investigating and evaluating the degree to which such matters may effect their ability to bid on, otherwise acquire, or make use of the construction permits available in Auction No. 54.

13. Potential bidders for the new full power television facility should note that, in November 1999, Congress enacted the Community Broadcasters Protection Act of 1999 (CBPA) which established a new Class A television service. In response to the enactment of the CBPA, the Commission adopted rules to establish the new Class A television service. In the *Class A Report and Order*, 65 FR 29985 (May 10, 2000), the Commission adopted rules to provide interference protection for eligible Class A television stations from new full power television stations. Given the Commission's ruling in the Class A Report and Order, the winning bidder in Auction No. 54, upon submission of its long-form application (FCC Form 301), will have to provide interference protection to qualified Class A television stations. Therefore, potential bidders are encouraged to perform engineering studies to determine the existence of Class A television stations and their effect on the ability to operate the full power television station proposed in this auction. Information about the identity and location of Class A television stations is available from the Media Bureau's Consolidated Database System (CDBS) (public access available at: *http://www.fcc.gov/mb*) and on the Media Bureau's Class A television web page: *http://www.fcc.gov/mb/video/files/classa.html*

14. Potential bidders for the new full power television facility are also reminded that full service television stations are in the process of converting from analog to digital operation and that stations may have pending applications to construct and operate digital television facilities, construction permits and/or licenses for such digital facilities. Bidders should investigate the impact such applications, permits and licenses may have on their ability to operate the facilities proposed in this auction.

15. Potential bidders should direct questions regarding the search capabilities of CDBS to the Media Bureau help line at (202) 418–2662, or via e-mail at *mbinfo@fcc.gov*.

iv. Bidder Alerts

16. All applicants must certify on their FCC Form 175 applications under penalty of perjury that they are legally, technically, financially and otherwise qualified to hold a construction permit, and not in default on any payment for Commission construction permits or licenses (including down payments) or delinquent on any non-tax debt owed to any Federal agency. Prospective bidders are reminded that submission of a false certification to the Commission is a serious matter that may result in severe penalties, including monetary forfeitures, construction permit or license revocations, exclusion from participation in future auctions, and/or criminal prosecution.

17. As is the case with many business investment opportunities, some unscrupulous entrepreneurs may attempt to use Auction No. 54 to deceive and defraud unsuspecting investors. Information about deceptive telemarketing investment schemes is available from the FTC at (202) 326–2222 and from the SEC at (202) 942–7040. Complaints about specific deceptive telemarketing investment schemes should be directed to the FTC, the SEC, or the National Fraud Information Center at (800) 876–7060. Consumers who have concerns about specific proposals regarding Auction No. 54 may also call the FCC Consumer Center at (888) CALL-FCC ((888) 225–5322).

v. National Environmental Policy Act (NEPA) Requirements

18. Permittees must comply with the Commission's rules regarding the National Environmental Policy Act (NEPA). The construction of a broadcast facility is a federal action and the permittee must comply with the Commission's NEPA rules for each such facility.

C. Auction Specifics

i. Auction Date

19. Auction No. 54 will begin on Wednesday, July 23, 2003. The initial schedule for bidding will be announced by public notice at least one week before the start of the auction. Unless otherwise announced, bidding on all construction permits will be conducted on each business day until bidding has stopped on all construction permits.

ii. Auction Title

20. Auction No. 54—Closed Broadcast.

iii. Bidding Methodology

21. The bidding methodology for Auction No. 54 will be simultaneous, multiple round bidding.

The Commission will conduct this auction over the Internet, and telephonic bidding will be available as well.

As a contingency plan, bidders may also dial in to the FCC Wide Area Network. Qualified bidders are permitted to bid telephonically or electronically.

iv. Pre-Auction Dates and Deadlines

22. The following is a list of important dates related to Auction No. 54:

Auction Seminar—June 12, 2003
Short-Form (FCC Form 175) Filing Window Opens—June 12, 2003; 12 p.m. ET
Short-Form (FCC Form 175) Application Deadline—June 20, 2003; 6 p.m. ET
Upfront Payments (via wire transfer)—July 3, 2003; 6 p.m. ET
Mock Auction—July 18, 2003
Auction Begins—July 23, 2003

i. Requirements for Participation

23. Those wishing to participate in the auction must:

• Submit a short form application (FCC Form 175) electronically by 6 p.m. ET, June 20, 2003. No other application may be substituted for the FCC Form 175.

• Submit a sufficient upfront payment and an FCC Remittance Advice Form (FCC Form 159) by 6 p.m. ET, July 3, 2003.

• Comply with all provisions outlined in this public notice and applicable Commission rules.

i. General Contact Information

24. The following is a list of general contact information related to Auction No. 54:

GENERAL AUCTION INFORMATION

General Auction Questions, Seminar Registration—FCC Auctions Hotline (888) 225–5322, Press Option #2, or direct (717) 338–2888, Hours of service: 8 a.m.–5:30 p.m. ET

AUCTION LEGAL INFORMATION

Auction Rules, Policies, Regulations—Auctions and Industry Analysis Division, Legal Branch (202) 418–0660

LICENSING INFORMATION

Rules, Polices, Regulations; Licensing Issues; Due Diligence Incumbency Issues—Audio Division (202) 418–2700; Video Division (202) 418–2700

TECHNICAL SUPPORT

Electronic Filing, Automated Auction System—FCC Auctions Technical Support Hotline, (202) 414–1250 (Voice), (202) 414–1255 (TTY); Hours of service: Monday through Friday 8 a.m. to 6 p.m. ET

PAYMENT INFORMATION

Wire Transfers, Refunds—FCC Auctions Accounting Branch; (202) 418–1995, (202) 418–2843 (Fax)

TELEPHONIC BIDDING

Will be furnished only to qualified bidders

FCC COPY CONTRACTOR

Qualex International

Additional Copies of Commission documents—Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, (202) 863–2893, (202) 863–2898, (Fax), *qualexint@aol.com* (E-mail)

PRESS INFORMATION

Meribeth McCarrick (202) 418–0654

FCC FORMS

(800) 418–3676 (outside Washington, DC), (202) 418–3676 (in the Washington Area), *http://www.fcc.gov/formpage.html*

FCC INTERNET SITES

http://www.fcc.gov
http://wireless.fcc.gov/auctions
http://www.fcc.gov/mb

II. Short-Form Application (FCC Form 175) Requirements

25. Guidelines for completion of the short-form application (FCC Form 175) are set forth in Attachment D of the *Auction No. 54 Procedures Public Notice.*

A. License Selection

26. The Bureaus notes that as part of the FCC Form 175 filing process, applicants must identify which construction permits they may bid on as part of the auction. While the electronic FCC Form 175 will allow for the selection of all construction permits, applicants should only select from among those construction permits that they selected on their previously filed FCC Form 301 or Form 346. Applicants that select construction permits on their FCC Form 175 that were not selected on the FCC Form 301 or Form 346 will not be permitted to bid on those construction permits during the auction.

B. Ownership Disclosure Requirements (FCC Form 175 Exhibit A)

27. The Commission indicated in the *Broadcast First Report and Order* that, for purposes of determining eligibility to participate in a broadcast auction, the uniform part 1 ownership disclosure standards would apply. Specifically, in completing FCC Form 175, all applicants will be required to provide information required by §§ 1.2105 and 1.2112 of the Commission's rules.

C. Consortia and Joint Bidding Arrangements (FCC Form 175 Exhibit B)

28. Applicants will be required to identify on their short-form applications any parties with whom they have entered into any consortium arrangements, joint ventures, partnerships or other agreements or understandings which relate in any way to the construction permits being auctioned, including any agreements relating to post-auction market structure. Applicants will also be required to certify on their short-form applications that they have not entered into any explicit or implicit agreements, arrangements or understandings of any kind with any parties, other than those identified, regarding the amount of their bids, bidding strategies, or the particular construction permits on which they will or will not bid.

29. While the anti-collusion rules do not prohibit non-auction related business negotiations among auction applicants, bidders are reminded that certain discussions or exchanges could touch upon impermissible subject matters because they may convey pricing information and bidding strategies. Such subject areas include, but are not limited to, issues such as management, sales, local marketing agreements, rebroadcast agreements, and other transactional agreements.

D. New Entrant Bidding Credit (Form 175 Exhibit C)

30. To fulfill its obligations under section 309(j) and further its long-standing commitment to the diversification of broadcast facility ownership, the Commission adopted a tiered New Entrant Bidding Credit for broadcast auction applicants with no, or very few, other media interests.

i. Eligibility

31. The interests of the bidder, and of any individuals or entities with an attributable interest in the bidder, in other media of mass communications shall be considered when determining a bidder's eligibility for the New Entrant Bidding Credit. The bidder's attributable interests shall be determined as of the short-form application (FCC Form 175) filing dead—June 20, 2003. Bidders intending to divest a media interest or make any other ownership changes, such as resignation of positional interests, in order to avoid attribution for purposes of qualifying for the New Entrant Bidding Credit must have consummated such divestment transactions or have completed such ownership changes by no later than the short-form application filing deadline—June 20, 2003.

32. Generally, media interests will be attributable for purposes of the New Entrant Bidding Credit to the same extent that such other media interests are considered attributable for purposes of the broadcast multiple ownership rules. However, attributable interests held by a winning bidder in existing low power television, television translator or FM translator facilities will not be counted among the bidders' other mass media interests in determining its eligibility for a New Entrant Bidding Credit. Full service noncommercial educational stations, on both reserved and non-reserved channels, are included among ''media of mass communications'' as defined in § 73.5008(b). A medium of mass communications is defined in 47 CFR 73.5008 (b) and includes non-commercial broadcast stations. For more

information, *see* section II.C. of the *Auction No. 54 Procedures Public Notice.*

ii. Application Requirements

33. In addition to the ownership information required on Exhibit A, applicants are required to file supporting documentation on Exhibit C to their FCC Form 175 applications to establish that they satisfy the eligibility requirements to qualify for a New Entrant Bidding Credit. In those cases where a New Entrant Bidding Credit is being sought, a certification under penalty of perjury must be set forth in Exhibit C.

iii. Bidding Credits

34. Applicants that qualify for the New Entrant Bidding Credit, as set forth in 47 CFR 73.5007, are eligible for a bidding credit that represents the amount by which a bidder's winning bid is discounted. The size of a New Entrant Bidding Credit depends on the number of ownership interests in other media of mass communications that are attributable to the bidder-entity and its attributable interest-holders:

- A 35 percent bidding credit will be given to a winning bidder if it, and/or any individual or entity with an attributable interest in the winning bidder, has no attributable interest in any other media of mass communications, as defined in 47 CFR 73.5008;
- A 25 percent bidding credit will be given to a winning bidder if it, and/or any individual or entity with an attributable interest in the winning bidder, has an attributable interest in no more than three mass media facilities, as defined in 47 CFR 73.5008;
- No bidding credit will be given if any of the commonly owned mass media facilities serve the same area as the proposed broadcast station, as defined in 47 CFR 73.5007, or if the winning bidder, and/or any individual or entity with an attributable interest in the winning bidder, has attributable interests in more than three mass media facilities.

35. Bidding credits are not cumulative; qualifying applicants receive either the 25 percent or the 35 percent bidding credit, but not both. Attributable interests are defined in 47 CFR 73.3555 and note 2 of that section. Bidders should note that unjust enrichment provisions apply to a winning bidder that utilizes a bidding credit and subsequently seeks to assign or transfer control of its license or construction permit to an entity not qualifying for the same level of bidding credit.

D. Provisions Regarding Defaulters and Former Defaulters (Form 175 Exhibit D)

36. Each applicant must provide a certification on its FCC Form 175 application, made under penalty of perjury, that it is not in default on any Commission licenses and that it is not delinquent on any non-tax debt owed to any Federal agency. In addition, each applicant must provide a certification on its FCC Form 175 application, made under penalty of perjury, indicating whether or not the applicant, its affiliates, its controlling interests, or the affiliates of its controlling interest, have ever been in default on any Commission licenses or have ever been delinquent on any non-tax debt owed to any federal agency. The applicant must provide such information for itself, its affiliates, its controlling interests, and the affiliates of its controlling interests, as defined by § 1.2110 of the Commission's rules (as amended in the *Part 1 Fifth Report and Order*). Applicants must include this statement as Exhibit D of the FCC Form 175.

37. ''Former defaulters''—*i.e.*, applicants, including their attributable interest holders, that in the past have defaulted on any Commission licenses or been delinquent on any non-tax debt owed to any Federal agency, but that have since remedied all such defaults and cured all of their outstanding non-tax delinquencies—are eligible to bid in Auction No. 54, provided that they are otherwise qualified. However, as discussed *infra* in section III.D.iii, former defaulters are required to pay upfront payments that are fifty percent more than the normal upfront payment amounts.

E. Installment Payments

38. Installment payment plans will not be available in Auction No. 54.

F. Other Information (FCC Form 175 Exhibits E and F)

39. Applicants owned by minorities or women, as defined in 47 CFR 1.2110(b)(2), may attach an exhibit (Exhibit E) regarding this status. This applicant status information is collected for statistical purposes only and assists the Commission in monitoring the participation of ''designated entities'' in its auctions. Applicants must specify the file number of the pending FCC Form 301 or Form 346 on Exhibit F (Miscellaneous Information). Applicants wishing to submit additional information may do so on Exhibit F.

G. Minor Modifications to Short-Form Applications (FCC Form 175)

40. After the short-form application filing deadline (June 20, 2003), applicants may make only minor changes to their FCC Form 175 applications. Applicants will not be permitted to make major modifications to their applications (*e.g.*, change their construction permit selections, change the certifying official, changes in ownership of the applicant that would constitute a change of control of the applicant, or changes affecting eligibility for the new entrant bidding credit). Permissible minor changes include, for example, deletion and addition of authorized bidders (to a maximum of three) and revision of exhibits. Applicants should make these modifications to their FCC Form 175 electronically and submit a letter, briefly summarizing the changes, by electronic mail to the attention of Margaret Wiener, Chief, Auctions and Industry Analysis Division, at the following address: *auction54@fcc.gov.* The electronic mail summarizing the changes must include a subject or caption referring to Auction No. 54. The Bureaus requests that parties format any attachments to electronic mail as Adobe® Acrobat® (pdf) or Microsoft® Word documents.

41. A separate copy of the letter should be faxed to the attention of Kathryn Garland at (717) 338–2850.

H. Maintaining Current Information in Short-Form Applications (FCC Form 175)

42. Applicants have an obligation under 47 CFR 1.65, to maintain the completeness and accuracy of information in their short-form applications. Amendments reporting substantial changes of possible decisional significance in information contained in FCC Form 175 applications, as defined by 47 CFR 1.2105(b)(2), will not be accepted and may in some instances result in the dismissal of the FCC Form 175 application.

III. Pre-Auction Procedures

A. Auction Seminar

43. On June 12, 2003 the FCC will sponsor a free seminar for Auction No. 54 at the Federal Communications Commission, located at 445 12th Street, SW., Washington, DC. The seminar will provide attendees with information about pre-auction procedures, conduct of the auction, the FCC Automated Auction System, and the broadcast service and auction rules.

B. Short-Form Application (FCC Form 175)—Due June 20, 2003

44. In order to be eligible to bid in this auction, applicants must first submit an

FCC Form 175 application. This application must be submitted electronically and received at the Commission no later than 6 p.m. ET on June 20, 2003. Late applications will not be accepted.

45. There is no application fee required when filing an FCC Form 175.

i. Electronic Filing

46. Applicants must file their FCC Form 175 applications electronically. Applications may generally be filed at any time beginning at 12 noon ET on June 12, 2003, until 6 p.m. ET on June 20, 2003. Applicants are strongly encouraged to file early and are responsible for allowing adequate time for filing their applications. Applicants may update or amend their electronic applications multiple times until the filing deadline on June 20, 2003.

47. Applicants must press the ''SUBMIT Application'' button on the ''Submission'' page of the electronic form to successfully submit their FCC Form 175s. Any form that is not submitted will not be reviewed by the FCC. Information about accessing the FCC Form 175 is included in Attachment C of the *Auction No. 54 Procedures Public Notice.* Technical support is available at (202) 414–1250 (voice) or (202) 414–1255 (text telephone (TTY)); hours of service are Monday through Friday, from 8 a.m. to 6 p.m. ET. In order to provide better service to the public, *all calls to the hotline are recorded.*

ii. Completion of the FCC Form 175

48. Applicants should carefully review 47 CFR 1.2105 and 73.5002, and must complete all items on the FCC Form 175. Instructions for completing the FCC Form 175 are in Attachment D of the *Auction No. 54 Procedures Public Notice.*

iii. Electronic Review of FCC Form 175

49. The FCC Form 175 electronic review system may be used to locate and print applicants' FCC Form 175 information. There is no fee for accessing this system. *See* Attachment C of the *Auction No. 54 Procedures Public Notice* for details on accessing the review system.

50. Applicants may also view other applicants' completed FCC Form 175s after the filing deadline has passed, and the FCC has issued a public notice explaining the status of the applications. **Note:** Applicants should not include sensitive information (*i.e.*, Taxpayer Identification Number or Employer Identification Number) on any exhibits to their FCC Form 175 applications.

C. Application Processing and Minor Corrections

51. After the deadline for filing the FCC Form 175 applications has passed, the FCC will process all timely submitted applications to determine which are acceptable for filing, and subsequently will issue a public notice identifying: (i) Those applications accepted for filing (including FCC account numbers and the construction permits for which they applied); (ii) those applications rejected; and (iii) those applications which have minor defects that may be corrected, and the deadline for filing such corrected applications.

D. Upfront Payments—Due July 3, 2003

52. In order to be eligible to bid in the auction, applicants must submit an upfront payment accompanied by an FCC Remittance Advice Form (FCC Form 159). After completing the FCC Form 175, filers will have access to an electronic version of the FCC Form 159 that can be printed and faxed to Mellon Bank in Pittsburgh, PA. All upfront payments must be received at Mellon Bank by 6 p.m. ET on July 3, 2003. For specific instructions regarding upfront payments, *see* section III.D. of the *Auction No. 54 Procedures Public Notice.*

i. Making Auction Payments by Wire Transfer

53. Wire transfer payments must be received by 6 p.m. ET on July 3, 2003. To avoid untimely payments, applicants should discuss arrangements (including bank closing schedules) with their banker several days before they plan to make the wire transfer, and allow sufficient time for the transfer to be initiated and completed before the deadline.

54. Applicants must fax a completed FCC Form 159 (Revised 2/00) to Mellon Bank at (412) 209–6045 at least one hour before placing the order for the wire transfer (but on the same business day). On the cover sheet of the fax, write ''Wire Transfer—Auction Payment for Auction Event No. 54.'' Bidders should confirm the receipt of their upfront payment at Mellon Bank by contacting their sending financial institution. Detailed instructions for completion of FCC Form 159 are included in Attachment E of the *Auction No. 54 Procedures Public Notice.*

ii. Amount of Upfront Payment

55. The Commission delegated to the Bureaus the authority and discretion to determine appropriate upfront payment(s) for each auction. In addition, in the *Part 1 Fifth Report and Order,* the Commission ordered that ''former defaulters,'' *i.e.*, applicants that have ever been in default on any Commission license or have ever been delinquent on any non-tax debt owed to any Federal agency, be required to pay upfront payments fifty percent greater than non-''former defaulters.'' In the *Auction No. 54 Comment Public Notice,* the Bureaus proposed that the amount of the upfront payment would determine the number of bidding units on which a bidder may place bids. In order to bid on a construction permit, otherwise qualified bidders that applied for that construction permit on FCC Form 175 must have an eligibility level that meets the number of bidding units assigned to that construction permit. (While the electronic FCC Form 175 allows for the selection of all construction permits, applicants should only select from among those construction permits that they selected on their previously filed FCC Form 301 or Form 346). At a minimum, an applicant's total upfront payment must be enough to establish eligibility to bid on at least one construction permit applied for on FCC Form 175, or else the applicant will not be eligible to participate in the auction. No comments were received; therefore, the Bureaus adopt its proposal. The specific upfront payments and bidding units for each construction permit are set forth in Attachment A of the *Auction No. 54 Procedures Public Notice.*

56. In calculating its upfront payment amount, an applicant should determine the *maximum* number of bidding units on which it may wish to be active (bidding units associated with construction permits on which the bidder has the standing high bid from the previous round and construction permits on which the bidder places a bid in the current round) in any single round, and submit an upfront payment covering that number of bidding units. In order to make this calculation, an applicant should add together the upfront payments for all construction permits on which it seeks to bid in any given round. Bidders should check their calculations carefully, as there is no provision for increasing a bidder's maximum eligibility after the upfront payment deadline.

57. Former defaulters should calculate their upfront payment for all construction permits by multiplying the number of bidding units they wish to purchase by 1.5. In order to calculate the number of bidding units to assign to former defaulters, the Commission will divide the upfront payment received by 1.5 and round the result up to the nearest bidding unit.

Note: An applicant's actual bidding in any round will be limited by the bidding units reflected in its upfront payment, in conjunction with the selections made on the FCC Form 175.

iii. Applicant's Wire Transfer Information for Purposes of Refunds of Upfront Payments

58. The Commission will use wire transfers for all Auction No. 54 refunds. To ensure that refunds of upfront payments are processed in an expeditious manner, the Commission is requesting that all pertinent information as listed be supplied to the FCC. Applicants can provide the information electronically during the initial short-form filing window after the form has been submitted. Wire Transfer Instructions can also be manually faxed to the FCC, Financial Operations Center, Auctions Accounting Group, ATTN: Gail Glasser or Tim Dates, at (202) 418–2843 by July 3, 2003. All refunds will be returned to the payer of record as identified on the FCC Form 159 unless the payer submits written authorization instructing otherwise. For additional information, please call Gail Glasser at 202–418–0578 or Tim Dates at (202) 418–0496.

Name of Bank
ABA Number
Contact and Phone Number
Account Number to Credit
Name of Account Holder
FCC Registration Number (FRN)
Taxpayer Identification Number
Correspondent Bank (if applicable)
ABA Number
Account Number

E. Auction Registration

59. Approximately ten days before the auction, the FCC will issue a public notice announcing all qualified bidders for the auction. Qualified bidders are those applicants whose FCC Form 175 applications have been accepted for filing and that have timely submitted upfront payments sufficient to make them eligible to bid on at least one of the construction permits for which they applied.

60. All qualified bidders are automatically registered for the auction. Registration materials will be distributed prior to the auction by two separate overnight mailings, each containing the confidential bidder identification number (BIN) and the other containing the SecurID cards, both of which are required to place bids. These mailings will be sent only to the contact person at the contact address listed in the FCC Form 175.

61. Applicants that do not receive both registration mailings will not be able to submit bids. Therefore, any qualified applicant that has not received both mailings by noon on Wednesday, July 16, 2003, should contact the Auctions Hotline at (717) 338–2888. Receipt of both registration mailings is critical to participating in the auction and each applicant is responsible for ensuring it has received all of the registration material.

62. Qualified bidders should note that lost bidder identification numbers or SecurID cards can be replaced only by appearing *in person* at the FCC Headquarters located at 445 12th Street, SW., Washington, DC 20554. Only an authorized representative or certifying official, as designated on an applicant's FCC Form 175, may appear *in person* with two forms of identification (one of which must be a photo identification) in order to receive replacements. Qualified bidders requiring replacements must call technical support prior to arriving at the FCC.

F. Remote Electronic Bidding

63. The Commission will conduct this auction over the Internet, and telephonic bidding will be available as well. As a contingency plan, bidders may also dial in to the FCC Wide Area Network. Qualified bidders are permitted to bid telephonically or electronically. In either case, each authorized bidder must have its own SecurID card, which the FCC will provide at no charge. For security purposes, the SecurID cards and the FCC Automated Auction System user manual are only mailed to the contact person at the contact address listed on the FCC Form 175. Each SecurID card is tailored to a specific auction; therefore, SecurID cards issued for other auctions or obtained from a source other than the FCC will not work for Auction No. 54. The telephonic bidding phone number will be supplied in the first overnight mailing, which also includes the confidential bidder identification number. Each applicant should indicate its bidding preference—electronic or telephonic—on the FCC Form 175.

64. SecurID cards can be recycled, and the Bureaus encourages bidders to return the cards to the FCC. The Bureaus will provide pre-addressed envelopes that bidders may use to return the cards once the auction is over.

G. Mock Auction

65. All qualified bidders will be eligible to participate in a mock auction on Friday, July 18, 2003. The mock auction will enable applicants to become familiar with the FCC Automated Auction System prior to the auction. Participation by all bidders is strongly recommended. Details will be announced by public notice.

IV. Auction Event

66. The first round of bidding for Auction No. 54 will begin on Wednesday, July 23, 2003. The initial bidding schedule will be announced in a public notice listing the qualified bidders, which is released approximately 10 days before the start of the auction.

A. Auction Structure

i. Simultaneous Multiple Round Auction

67. In the *Auction No. 54 Comment Public Notice,* the Bureaus proposed to award all the construction permits in Auction No. 54 in a simultaneous multiple round auction. The Bureaus received no comments on this issue. The Bureaus therefore concludes that it is operationally feasible and appropriate to auction the construction permits through a simultaneous multiple round auction. Unless otherwise announced, bids will be accepted on all construction permits in successive rounds of bidding.

ii. Maximum Eligibility and Activity Rules

68. In the *Auction No. 54 Comment Public Notice,* the Bureaus proposed that the amount of the upfront payment submitted by a bidder would determine the maximum initial eligibility (as measured in bidding units) for each bidder. No comments were received concerning the eligibility rule.

69. For Auction No. 54, the Bureaus will adopt its proposal. The amount of the upfront payment submitted by a bidder determines the maximum initial eligibility (in bidding units) for each bidder. The total upfront payment defines the maximum number of bidding units on which the applicant will be permitted to bid and hold high bids in a round. As there is no provision for increasing a bidder's eligibility after the upfront payment deadline, prospective bidders are cautioned to calculate their upfront payments carefully. The total upfront payment does not affect the total dollar amount a bidder may bid on any given construction permit.

70. In addition, the Bureaus received no comments on its proposal for a single stage auction. Therefore, in order to ensure that the auction closes within a reasonable period of time, the Bureaus adopts its proposal with the following activity requirement: a bidder is required to be active on 100 percent of its current eligibility during each round

of the auction. That is a bidder must either place a bid and/or be the standing high bidder during each round of the auction.

71. Failure to maintain the requisite activity level will result in the use of an activity rule waiver, if any remain, or a permanent reduction in the bidder's bidding eligibility, possibly eliminating them from the auction.

iii. Activity Rule Waivers and Reducing Eligibility

72. Each bidder will be provided three activity rule waivers that may be used in any round during the course of the auction. Use of an activity rule waiver preserves the bidder's current bidding eligibility despite the bidder's activity in the current round being below the required level. An activity rule waiver applies to an entire round of bidding and not to a particular construction permit.

73. The FCC Automated Auction System assumes that bidders with insufficient activity would prefer to use an activity rule waiver (if available) rather than lose bidding eligibility. Therefore, the system will automatically apply a waiver (known as an ''automatic waiver'') at the end of any round where a bidder's activity level is below the minimum required unless: (i) There are no activity rule waivers remaining; or (ii) bidders eligible to bid on more than one construction permit override the automatic application of a waiver by reducing eligibility, thereby meeting the minimum requirements. If a bidder that is eligible to bid on only one construction permit has no activity rule waivers available, the bidder's eligibility will be reduced, eliminating it from the auction. If a bidder that is eligible to bid on more than one construction permit has no waivers remaining and does not satisfy the required activity level, its current eligibility will be permanently reduced, possibly eliminating the bidder from the auction.

74. A bidder that is eligible to bid on more than one construction permit and has insufficient activity may wish to reduce its bidding eligibility rather than use an activity rule waiver. If so, the bidder must affirmatively override the automatic waiver mechanism during the bidding period by using the ''reduce eligibility'' function in the bidding system. In this case, the bidder's eligibility is permanently reduced to bring the bidder into compliance with the activity rules. Once eligibility has been reduced, a bidder will not be permitted to regain its lost bidding eligibility.

75. Finally, a bidder may proactively use an activity rule waiver as a means to keep the auction open without placing a bid. If a bidder submits a proactive waiver (using the proactive waiver function in the bidding system) during a bidding period in which no bids are submitted, the auction will remain open and the bidder's eligibility will be preserved. An automatic waiver invoked in a round in which there are no new bids will not keep the auction open. **Note:** Once a proactive waiver is submitted during a round, that waiver cannot be unsubmitted.

iv. Auction Stopping Rules

76. For Auction No. 54, the Bureaus proposed to employ a simultaneous stopping rule. Under this rule, bidding will remain open on all construction permits until bidding stops on every construction permit. The auction will close for all construction permits when one round passes during which no bidder submits a new acceptable bid on any construction permit or applies a proactive waiver.

77. The Bureaus also sought comment on a modified version of the stopping rule. The modified version of the stopping rule would close the auction for all construction permits after the first round in which no bidder submits a proactive waiver or a new bid on any construction permit on which it is not the standing high bidder.

78. The Bureaus further proposed retaining the discretion to keep an auction open even if no new bids or proactive waivers are submitted. In this event, the effect will be the same as if a bidder had submitted a proactive waiver. Thus, the activity rule will apply as usual, and a bidder with insufficient activity will either use an activity rule waiver (if it has any left) or lose bidding eligibility.

79. In addition, the Bureaus proposed that it reserve the right to declare that the auction will end after a designated number of additional rounds (''special stopping rule''). If the Bureaus invoke this special stopping rule, it will accept bids in the final round(s) only for construction permits on which the high bid increased in at least one of the preceding specified number of rounds. The Bureaus proposed to exercise this option only in circumstances such as where the auction is proceeding very slowly, where there is minimal overall bidding activity, or where it appears likely that the auction will not close within a reasonable period of time.

80. The Bureaus adopt all of the proposals concerning the auction stopping rules. Auction No. 54 will begin under the simultaneous stopping rule, and the Bureaus will retain the discretion to invoke the other versions of the stopping rule.

v. Auction Delay, Suspension, or Cancellation

81. By public notice or by announcement during the auction, the Bureaus may delay, suspend, or cancel the auction in the event of natural disaster, technical obstacle, evidence of an auction security breach, unlawful bidding activity, administrative or weather necessity, or for any other reason that affects the fair and competitive conduct of competitive bidding. In such cases, the Bureaus, in their sole discretion, may elect to resume the auction starting from the beginning of the current round, resume the auction starting from some previous round, or cancel the auction in its entirety.

B. Bidding Procedures

i. Round Structure

82. The initial bidding schedule will be announced in the public notice listing the qualified bidders, which is released approximately 10 days before the start of the auction. Each bidding round is followed by the release of the round results. Multiple bidding rounds may be conducted in a given day. Details regarding round result formats and locations will also be included in the qualified bidders public notice.

83. The FCC has discretion to change the bidding schedule in order to foster an auction pace that reasonably balances speed with the bidders' need to study round results and adjust their bidding strategies. The Bureaus may increase or decrease the amount of time for the bidding rounds and review periods, or the number of rounds per day, depending upon the bidding activity level and other factors.

ii. Reserve Price or Minimum Opening Bid

84. For Auction No. 54, the Bureaus proposed establishing minimum opening bids based on the potential value of the spectrum, including the type of service, proposed population coverage, market size, industry cash flow data and recent broadcast transactions. The Bureaus received no comments on this issue therefore, it adopts its proposal. The specific minimum opening bids for each construction permit are set forth in Attachment A of the *Auction No. 54 Procedures Public Notice.*

85. The minimum opening bids the Bureaus adopts for Auction No. 54 are reducible at its discretion. The Bureaus emphasizes, however, that such

discretion will be exercised, if at all, sparingly and early in the auction, *i.e.*, before bidders lose all waivers and begin to lose substantial eligibility. During the course of the auction, the Bureaus will not entertain any requests to reduce the minimum opening bid on specific construction permits.

iii. Minimum Acceptable Bids and Bid Increments

86. In the *Auction No. 54 Comment Public Notice,* the Bureaus proposed to use a fixed percentage to calculate minimum acceptable bids. The Bureaus further proposed to retain the discretion to change the minimum acceptable bids and bid increments if circumstances so dictate.

87. The Bureaus adopts the proposal contained in the *Auction No. 54 Comment Public Notice.* Once there is a standing high bid on a construction permit, the FCC Automated Auction System will calculate a minimum acceptable bid for that construction permit for the following round. The difference between the minimum acceptable bid and the standing high bid for each construction permit will define the bid increment—*i.e.*, bid increment = (minimum acceptable bid) − (standing high bid). The nine acceptable bid amounts for each construction permit consist of the minimum acceptable bid (the standing high bid plus one bid increment) and additional amounts calculated using multiple bid increments (*i.e.*, the second bid amount equals the standing high bid plus two times the bid increment, the third bid amount equals the standing high bid plus three times the bid increment, etc.).

88. For Auction No. 54, the Bureaus will use a 10 percent bid increment. This means that the minimum acceptable bid for a construction permit will be approximately 10 percent greater than the previous standing high bid received on the construction permit. The minimum acceptable bid amount will be calculated by multiplying the standing high bid times one plus the increment percentage—*i.e.*, (standing high bid) * (1.10).

89. Until a bid has been placed on a construction permit, the minimum acceptable bid for that construction permit will be equal to its minimum opening bid. The additional bid amounts are calculated using the difference between the minimum opening bid times one plus the percentage increment, rounded as described, and the minimum opening bid. That is, the increment used to calculate additional bid amounts = (minimum opening bid)(1 + percentage increment){rounded} − (minimum opening bid). Therefore, when the percentage increment equals 0.1 (*i.e.*, 10%), the first additional bid amount will be approximately ten percent higher than the minimum opening bid; the second, twenty percent higher; the third, thirty percent higher; etc.

90. The Bureaus retain the discretion to compute the minimum acceptable bids through other methodologies if they determine circumstances so dictate. Advanced notice of the Bureaus' decision to do so will be announced via the FCC Automated Auction System.

iv. High Bids

91. At the end of a bidding round, the FCC Automated Auction System determines the high bid for each construction permit based on the highest gross bid amount received for each construction permit. A high bid from a previous round is sometimes referred to as a ''standing high bid.'' A ''standing high bid'' will remain the high bid until there is a higher bid on the same construction permit at the close of a subsequent round. Bidders are reminded that standing high bids confer bidding activity.

92. A Sybase® SQL pseudo-random number generator based on the Lecuyer algorithm will be used to select a high bid in the event of identical high bids on a construction permit in a given round (*i.e.,* tied bids). The tied bid having the highest random number will become the standing high bid. The remaining bidders, as well as the high bidder, will be able to submit a higher bid in a subsequent round. If no bidder submits a higher bid in a subsequent round, the high bid from the previous round will win the construction permit. If any bids are received on the construction permit in a subsequent round, the high bid will once again be determined on the highest gross bid amount received for the construction permit.

v. Bidding

93. During a bidding round, a bidder may submit bids for any or all construction permits selected on its FCC Form 175 (subject to its eligibility based on previously filed FCC Forms 301 or Form 346), remove bids placed in the same bidding round, or if eligible to bid on more than one construction permit, permanently reduce eligibility. Bidders also have the option of making multiple submissions in each round. If a bidder submits multiple bids for a single construction permit in the same round, the system takes the last bid entered as that bidder's bid for the round. Bidders should note that the bidding units associated with construction permits for which the bidder has removed its bid do not count towards the bidder's activity at the close of the round.

94. Please note that all bidding will take place remotely either through the FCC Automated Auction System or by telephonic bidding. Telephonic bidders are therefore reminded to allow sufficient time to bid by placing their calls well in advance of the close of a round. Normally, four to five minutes are necessary to complete a bid submission.

95. A bidder's ability to bid on specific construction permits in the first round of the auction is determined by two factors: (i) The construction permits applied for on FCC Form 175 (applicants are eligible to bid on only those construction permits selected on their previously filed FCC Form 301 or Form 346); and (ii) the upfront payment amount deposited. The bid submission screens will allow bidders to submit bids on only those construction permits for which the bidder applied on its FCC Form 175.

96. In order to access the bidding functions of the FCC Automated Auction System, bidders must be logged in during the bidding round using the bidder identification number provided in the registration materials, and the tokencode generated by the SecurID card. Bidders are strongly encouraged to print bid confirmations for each round *after* they have completed all of their activity for that round.

97. In each round, eligible bidders will be able to place bids on a given construction permit in any of nine different amounts. For each construction permit, the FCC Automated Auction System interface will list the nine acceptable bid amounts in a drop-down box. Bidders may use the drop-down box to select from among the nine bid amounts. The FCC Automated Auction System also includes an import function that allows bidders to upload text files containing bid information.

98. Until a bid has been placed on a construction permit, the minimum acceptable bid for that construction permit will be equal to its minimum opening bid. Once there is a standing high bid on a construction permit, the FCC Automated Auction System will calculate a minimum acceptable bid for that construction permit for the following round, as described in section IV.B.iii.

vi. Bid Removal and Bid Withdrawal

99. In the *Auction No. 54 Comment Public Notice,* the Bureaus proposed that bidders not be permitted to withdraw bids in any round. The

Bureaus received no comments on this issue. Therefore, the Bureaus adopt their proposal and will not permit bidders to withdrawal bids in any round during the auction.

100. Procedures. Before the close of a bidding round, a bidder has the option of removing any bids placed in that round. By using the ''remove bid'' function in the bidding system, a bidder may effectively ''unsubmit'' any bid placed within that round. Removing a bid will affect a bidder's activity for the round in which it is removed, *i.e.*, a bid that is subsequently removed does not count toward the bidder's activity requirement. Once a round closes, a bidder may no longer remove a bid. No comments were received on this issue, therefore, the Bureaus adopts these procedures for Auction No. 54.

vii. Round Results

101. Bids placed during a round will not be made public until the conclusion of that bidding period. After a round closes, the Bureaus will compile reports of all bids placed, current high bids, new minimum acceptable bids, and bidder eligibility status (bidding eligibility and activity rule waivers), and post the reports for public access. Reports reflecting bidders' identities for Auction No. 54 will be available before and during the auction. Thus, bidders will know in advance of this auction the identities of the bidders against which they are bidding.

viii. Auction Announcements

102. The FCC will use auction announcements to announce items such as schedule changes. All FCC auction announcements will be available by clicking a link on the FCC Automated Auction System.

ix. Maintaining the Accuracy of FCC Form 175 Information

103. After the short-form filing deadline, applicants may make only minor changes to their FCC Form 175 applications. Applicants must make these modifications to their FCC Form 175 electronically and submit a letter, briefly summarizing the changes, by electronic mail to the attention of Margaret Wiener, Chief, Auctions and Industry Analysis Division at the following address: *auction54@fcc.gov.* The electronic mail summarizing the changes must include a subject or caption referring to Auction No. 54. The Bureaus requests that parties format any attachments to electronic mail as Adobe® Acrobat® (pdf) or Microsoft® Word documents.

104. A separate copy of the letter should be faxed to the attention of Kathryn Garland at (717) 338–2850. Questions about other changes should be directed to Kenneth Burnley of the Auctions and Industry Analysis Division at (202) 418–0660.

V. Post-Auction Procedures

A. Down Payments

105. After bidding has ended, the Commission will issue a public notice declaring the auction closed, identifying the winning bidders and down payments due.

106. Within ten business days after release of the auction closing public notice, each winning bidder must submit sufficient funds (in addition to its upfront payment) to bring its total amount of money on deposit with the Commission for Auction No. 54 to 20 percent of its net winning bid (actual bids less any applicable bidding credit).

B. Long-Form Application

107. The auction closing public notice will specify procedures for submitting any necessary minor amendments to the winning bidder's previously filed long form application. In accordance with Commission rules, the winning bidder may not submit amendments that constitute a major change from either the technical or legal proposal specified in the previously filed long form application. Given the length of time that the long form applications have been pending, the winning bidder should take into account any relevant rule changes in amending their long form applications on file.

C. Default and Disqualification

108. Any high bidder that defaults or is disqualified after the close of the auction (*i.e.*, fails to remit the required down payment within the prescribed period of time, fails to submit a timely long-form application, fails to make full payment, or is otherwise disqualified) will be subject to the payments described in 47 CFR 1.2104(g)(2). In such event the Commission will offer the construction permit to the next highest bidder (in descending order) at their final bid. In addition, if a default or disqualification involves gross misconduct, misrepresentation, or bad faith by an applicant, the Commission may declare the applicant and its principals ineligible to bid in future auctions, and may take any other action that it deems necessary, including institution of proceedings to revoke any existing licenses or construction permits held by the applicant.

D. Refund of Remaining Upfront Payment Balance

109. All applicants that submitted upfront payments but were not winning bidders for a construction permit in Auction No. 54 may be entitled to a refund of their remaining upfront payment balance after the conclusion of the auction. All refunds will be returned to the payer of record, as identified on the FCC Form 159, unless the payer submits written authorization instructing otherwise.

110. Qualified bidders that have exhausted all of their activity rule waivers, have no remaining bidding eligibility must submit a written refund request. If you have completed the refund instructions electronically, then only a written request for the refund is necessary. If not, the request must also include wire transfer instructions, Taxpayer Identification Number (''TIN'') and FCC Registration Number (FRN). Send refund request to: Federal Communications Commission, Financial Operations Center, Auctions Accounting Group, Gail Glasser or Tim Dates, 445 12th Street, SW., Room 1–C863, Washington, DC 20554.

111. Bidders are encouraged to file their refund information electronically using the refund information portion of the FCC Form 175, but bidders can also fax their information to the Auctions Accounting Group at (202) 418–2843. Once the information has been approved, a refund will be sent to the party identified in the refund information.

Note: Refund processing generally takes up to two weeks to complete. Bidders with questions about refunds should contact Gail Glasser at (202) 418–0578 or Tim Dates at (202) 418–0496.

Federal Communications Commission.

Margaret Wiener,

Chief, Auctions and Industry Analysis Division.

[FR Doc. 03–14813 Filed 6–11–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Notices

AGENCY: Federal Election Commission.

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, June 12, 2003, meeting open to the public:

The following item was withdrawn from the agenda: Draft Advisory Opinion 2103–05: National Association of Home Builders of the United States (NAHB) by counsel, E. Mark Braden and William H. Schweitzer.

DATE AND TIME: Thursday, June 19, 2003 at 10 a.m.

PLACE: 999 E Street, NW., Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes.

Draft Advisory Opinion 2003–14: The Home Depot, Inc. by counsel, Brett G. Kappel.

Routine Administrative Matters.

FOR FURTHER INFORMATION CONTACT: Mr. Ron Harris, Press Officer Telephone: (202) 694–1220.

Mary W. Dove,

Secretary of the Commission.

[FR Doc. 03–15043 Filed 6–10–03; 3:10 pm]

BILLING CODE 6715–01–M

GENERAL SERVICES ADMINISTRATION

Office of Management Services; Stocking of an Optional Form

AGENCY: General Services Administration.

ACTION: Notice.

SUMMARY: Because of tighter security throughout the Federal Government, any type of identification card has now been removed from the GSA forms Web site.

Since the form is authorized for local reproduction, agencies can only request a camera copy to use for printing from: Forms Management, (202) 501–0581 or e-mail to *barbm.williams@gsa.gov.*

DATES: Effective June 12, 2003.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Williams, General Services Administration, (202) 501–0581.

Dated: June 4, 2003.

Barbara M. Williams,

Deputy Standard and Optional Forms Management Officer, General Services Administration.

[FR Doc. 03–14838 Filed 6–11–03; 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Applications Available To Request Waiver of the Two-Year Foreign Residence Requirement for Physicians with J–1 Visa Who Will Deliver Health Care Service

ACTION: Notice of Availability of Applications.

SUMMARY: The HHS Exchange Visitor Program announces the availability of applications to request waiver of the two-year foreign residency requirement for physicians with J–1 visas who agree to deliver health care services for three years in primary care or mental health Professional Shortage Areas (HPSAs) or medically underserved areas or populations (MUA/Ps).

FOR FURTHER INFORMATION CONTACT: Michael Berry, Bureau of Health Professions, 5600 Fishers Lane, Rm. 8–67, Rockville, MD 20857. Telephone: 301–443–4154; Fax: 301–443–7904; *MBerry@HRSA.gov.*

ADDRESSES: Applications to request waivers to deliver health care services are available at *http://www.globalhealth.gov* and the Office of Global Health Affairs, 200 Independence Ave., SW., Room 639–H, Washington, DC 20201. Telephone: 202–690–6174; Fax: 202–690–7127.

SUPPLEMENTARY INFORMATION: On December 19, 2002, the Department of Health and Human Services (HHS) published in the **Federal Register** (67 FR 77692) an interim-final rule amending the regulations at 45 CFR part 50 governing the HHS Exchange Visitor Program. Under this program, HHS acts as an Interested Government Agency (IGA) to request waivers, on the Exchange Visitors' behalf, of the two-year foreign residency requirement. The amendments expanded the program to permit institutions and health care facilities to submit to HHS requests for waiver of the two-year home-country physical presence requirement for physician Exchange Visitors to deliver primary health care services in underserved areas, in addition to waivers to perform research.

In determining whether to request a waiver for an Exchange Visitor to deliver primary health care services, HHS will consider information from and coordinate with State Departments of Public Health (or the equivalent), other IGAs, HHS programs such as the National Health Service Corps, and other relevant government agencies.

HHS will process applications in the order received. Please note that HHS will not accept applications submitted by Exchange Visitors. Applications for waiver requests must be submitted by private or non-federal institutions, organizations, or agencies or by a component agency of HHS.

In brief, the criteria for a waiver recommendation by HHS acting as an IGA are as follows:

1. Eligibility to apply for HHS waiver requests is limited to primary care physicians, and general psychiatrists who have completed their primary care or psychiatric residency training programs. Primary care physicians are defined as: physicians practicing general internal medicine, pediatrics, family practice or obstetrics/gynecology and who are willing to work in a primary care HPSA or MUA/P; and general psychiatrists willing to work in a Mental Health HPSA.

Note: The regulations restrict eligibility to primary care physicians, and general psychiatrists who have completed their primary care or psychiatric residency training programs no more than 12 months before the date of commencement of employment under the contract described below. 45 CFR 50.5(b). For applications submitted prior to October 1, 2003, HHS will ease this12-month eligibility condition to enable physicians who completed their training programs in June 2002 to be eligible to apply for a waiver. Without this modification, physicians who completed their training programs in June 2002 would be unable to begin employment by the required date, July 2003, and thus would be ineligible to seek waivers. Accordingly, for applications received prior to October 1, 2003, the physician seeking a waiver must have completed a primary care or general psychiatric residency no earlier than June 1, 2002.

2. The petitioning health care facility must establish that it has recruited actively and in good faith for U.S. physicians in the recent past, but has been unable to recruit a qualified U.S. physician.

3. The head of a petitioning health care facility must execute a statement to confirm that the facility is located in a specific, designated HPSA or MUA/P, and that it provides medical care to Medicaid and Medicare eligible patients and the uninsured indigent.

4. The Exchange Visitor must execute a statement that he or she does not have pending, and will not submit, other IGA waiver requests while HHS processes the waiver request.

5. The employment contract must require the Exchange Visitor to practice a specific primary care discipline or general psychiatry for a minimum of three years, 40 hours per week in a specified HPSA or MUA/P. It may not include a non-compete clause that limits the Exchange Visitor's ability to continue to practice in any HHS-designated primary care or mental health HPSA or MUA/P after the period of obligation. The contract must be terminable only for cause and not terminable by mutual agreement until completion of the three-year commitment, except that the contract may be assigned to another eligible employer, subject to approval by HHS

and consistent with all applicable INS and Department of Labor requirements.

Dated: June 5, 2003.

William R. Steiger,

Director, Office of Global Health Affairs.

[FR Doc. 03–14882 Filed 6–11–03; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–03–75]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 498–1210.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Dale Verell, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project: Questionnaire Design Research Laboratory (QDRL) 2004–2007, (OMB No. 0920–0222)—Revision—National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC). The QDRL conducts questionnaire pre-testing and evaluation activities for CDC surveys (such as the NCHS National Health Interview Survey) and other federally sponsored surveys. The most common questionnaire evaluation method is the cognitive interview. In a cognitive interview, a questionnaire design specialist interviews a volunteer participant. The interviewer administers the draft survey questions as written, but also probes the participant in depth about interpretations of questions, recall processes used to answer them, and adequacy of response categories to express answers, while noting points of confusion and errors in responding. Interviews are generally conducted in small rounds of about 12 interviews; ideally, the questionnaire is re-worked between rounds and revisions are tested iteratively until interviews yield relatively few new insights. When possible, cognitive interviews are conducted in the survey's intended mode of administration. For example, when testing telephone survey questionnaires, participants often respond to the questions via a telephone in a laboratory room. This method forces the participant to answer without face-to-face interaction, but still allows QDRL staff to observe response difficulties, and to conduct a face-to-face debriefing. In general, cognitive interviewing provides useful data on questionnaire performance at minimal cost and respondent burden (note that respondents receive remuneration for their travel and effort). Similar methodology has been adopted by other federal agencies, as well as by academic and commercial survey organizations. There are no costs to respondents.

Respondents	Number of respondents	Number responses per respondent	Average burden per response (in hrs.)	Total burden (in hrs.)
Test Volunteers	500	1	72/60	600
Total	.....	.....	.....	600

Dated: June 6, 2003.

Thomas A. Bartenfeld,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 03–14845 Filed 6–11–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–03–68]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 498–1210.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Dale Verell, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project: Implementation of a Computer-Assisted Telephone Interview (CATI) System for the Pregnancy Risk Assessment Monitoring System (PRAMS),—New— National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

The Pregnancy Risk Assessment System (PRAMS) is part of the CDC initiative to reduce infant mortality and low birthweight and promote safe motherhood. PRAMS is a state-specific, population-based risk factor surveillance system of women who have recently delivered a live-born infant.

PRAMS is designed to identify and monitor selected maternal experiences and behaviors that occur before and during pregnancy and during the child's early infancy. PRAMS is funded through cooperative agreements between CDC's Division of Reproductive Health (DRH) and participating state and local health departments. In 2003, 31 states and the city of New York (NYC) are funded by CDC to conduct PRAMS.

CDC is proposing to contract out for the development of a standard Computer-Assisted Telephone Interviewing (CATI) system that PRAMS programs can use for collecting telephone interview data. Sampled women are contacted by mail with telephone follow-up for nonrespondents. Approximately 15 percent of all interviews in each program's area (state or NYC) are conducted by telephone. CDC had provided funds for programs interested in using CATI technology to develop CATI systems for the telephone interviews. Some programs have developed their own CATI systems, while many continue to record telephone interviews on paper. The dual modes used and the variations in CATI systems developed by the PRAMS programs have created data management problems for PRAMS administrators at CDC. CDC cleans and weights the program data and provides each program with an analysis dataset. The variations in data files have resulted in backlogs in providing analysis datasets to PRAMS programs. The proposed CATI system will collect telephone interview data in a similar manner and consistent file layout across all PRAMS programs.

The new CATI system will also simplify the data collection process in the programs. As each woman is interviewed by telephone, the interviewer will directly record her responses into the CATI system. For programs still recording telephone interviews on paper, the CATI system will eliminate the extra step of keying the survey responses after the interview is completed. In addition, the CATI system will record operational information about successful call attempts which will assist programs in contacting women more efficiently. For CDC, receiving telephone interview data in a standardized format will simplify the data cleaning process and allow for provision of analysis datasets to programs in a more timely manner. There is no cost to respondents for completing the survey.

Respondents	Number of respondents	Number of responses per respondent	Average burden per response (in hrs.)	Total burden (in hrs.)
PRAMS Programs	32	312.5	20/60	3,333
Total				3,333

Dated: June 6, 2003.

Thomas A. Bartenfeld,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 03–14847 Filed 6–11–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–03–74]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 498–1210.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Dale Verell, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project: Healthy People 2010—National Survey of Public Health Agencies—New—Public Health Practice Program Office (PHPPO), Centers for Disease Control and Prevention (CDC). The proposed survey is designed to collect data to address objectives in Chapter 23; Healthy People 2010 focus area 23, Public Health Infrastructure. The Centers for Disease Control and Prevention and the Health Resources and Services Administration are co-lead agencies for focus area 23. The overall goal of objectives in focus area 23 is to ensure that federal tribal, State and local health agencies have the infrastructure to provide essential public health services effectively. This one-time survey is expected to take place over two to three months. There is no cost to respondents.

Respondents	Number of respondents	Number of responses per respondent	Average burden per response (in hrs.)	Total burden (in hrs.)
Local health Agencies	1300	1	20/60	434
Tribal Agencies	250	1	20/60	84
Total				535

Dated: June 4, 2003.

Thomas A. Bartenfeld,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 03–14848 Filed 6–11–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[CMS–216]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare and Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* Organ Procurement Organization/Histocompatibility Laboratory Statement of Reimbursable Costs, Manual Instructions and Supporting Regulations in 42 CFR 413.20 and 413.24; *Form No.:* CMS–216 (OMB# 0938–0102); *Use:* This form is required by statute and regulation for participation in the Medicare program. The information is used to determine payment for Medicare. Organ Procurement Organizations and Histocompatibility Laboratories are the users.; *Frequency:* Annually; *Affected Public:* Business or other for-profit, Not-for-profit institutions, and State, Local or Tribal Government; *Number of Respondents:* 108; *Total Annual Responses:* 108; *Total Annual Hours:* 4,860.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS Web site address at *http://cms.hhs.gov/regulations/pra/default.asp,* or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov,* or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: Brenda Aguilar, New Executive Office Building, Room 10235, Washington, DC 20503, Fax Number: (202) 395–6974.

Dated: June 5, 2003.

Dawn Willinghan,

CMS Reports Clearance Officer, Division of Regulations Development and Issuances, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 03–14816 Filed 6–11–03; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[CMS–2786]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare and Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (CMS)), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* Fire Safety Survey Report Forms and Supporting Regulations in 42 CFR 416.44, 418.100, 482.41, 483.70, 483.470; *Form No.:* CMS–2786 M, R, and T–Y (OMB# 0938–0242); *Use:* CMS surveys facilities to determine compliance with the Life Safety Code of 2000. The providers must make documentation proving compliance available to the surveyors; *Frequency:* Annually; *Affected Public:* Business or other for-profit, Not-for-profit institutions; *Number of Respondents:* 25,496; *Total Annual Responses:* 25,496; *Total Annual Hours:* 2125. To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS's Web site address at *http://cms.hhs.gov/regulations/pra/default.asp,* or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov,* or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the CMS Paperwork Clearance Officer designated at the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development and Issuances, Attention: Dawn Willinghan, Room: C5–14–03, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: June 5, 2003.

Dawn Willinghan,

CMS Reports Clearance Officer, Division of Regulations Development and Issuances, Office of Strategic Operations and Strategic Affairs.

[FR Doc. 03–14817 Filed 6–11–03; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: Procedures to Use Child Care and Development Fund (CCDF) for Construction or Major Renovation.

OMB No.: 0970–0160.

Description: The Child Care and Development Block Grant Act, as amended, allows Indian Tribes to use Child Care and Development Fund (CCDF) grant awards for construction or major renovation of child care facilities. A tribal grantee must first request and receive approval from the Administration for Children and Families (ACF) before using CCDF funds for construction or major renovation. This information collection contains the statutorily-mandated uniform procedures for the solicitation and consideration of requests, including instructions for preparation of environmental assessments in conjunction with the National Environmental Policy Act. The proposed draft procedures update the procedures that were originally issued in August 1997 and first updated in February 2001. Respondents will be CCDF tribal grantees requesting to use CCDF funds for construction or major renovation.

Respondents: Tribal Child Care Lead Agencies acting on behalf of Tribal Governments.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Construction and Renovation	10	1	20	200

Estimated Total Annual Burden Hours: 200

In compliance with the requirements of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. E-mail address: *rsargis@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: June 5, 2003.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 03–14742 Filed 6–11–03; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: (1) TANF Data Report, ACF–199; (2) SSP–MOE Data Report, ACF–209.

OMB No.: 0970–0199.

Description: States, the District of Columbia and certain U.S. territories are required by 42 U.S.C. 611 and 45 CFR Part 265 to collect on a monthly basis and report to HHS on a quarterly basis a wide variety of disaggregated case record information for their programs funded under Temporary Assistance for Needy Families (TANF). If a respondent wants to qualify for a high performance bonus or receive a caseload reduction credit, the respondent must submit similar data for its separate state programs. A respondent may comply with these requirements by collecting and submitting case record information for its entire caseload or for a portion of the caseload that is obtained through the use of scientifically acceptable sampling methods. HHS collects the information electronically through the use of the TANF Data Report (ACF–199) and the SSP–MOE Data Report (ACF–209) and their associated TANF Sampling and Statistical Methods Manual. HHS is proposing to extend this information collection for another three years.

Respondents: The 50 States of the United States, the District of Columbia, Guam, Puerto Rico, and the United States Virgin Islands.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
TANF Data Report (ACF–199)	54	4	2,153.56	465,169
SSP–MOE Data Report (ACF–209)	29	4	674.25	78,213

Estimated Total Annual Burden Hours: 543,382

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. E-mail address:*rsargis@acf.hhs.gov.*

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**.

Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, NW., Washington, DC 20503, Attn: Desk Officer for ACF, *E-mail address: lauren_wittenberg@omb.eop.gov.*

Dated: June 5, 2003.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 03–14743 Filed 6–11–03; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2003N–0213]

Agency Information Collection Activities; Proposed Collection; Comment Request; Reporting and Recordkeeping Requirements and Availability of Sample Electronic Products for Manufacturers and Distributors of Electronic Products

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing information collection, and to allow 60 days for public comment in response to the notice. This notice solicits comments on information collection requirements for reporting and recordkeeping, general and specific requirements, and the availability of sample electronic products for manufacturers and distributors of electronic products.

DATES: Submit written or electronic comments on the collection of information by August 11, 2003.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.fda.gov/dockets/ecomments*. Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Peggy Robbins, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Reporting and Recordkeeping Requirements and Availability of Sample Electronic Products for Manufacturers and Distributors of Electronic Products (OMB Control No. 0910–0025)—Extension

Under sections 532 through 542 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360ii through 360ss), FDA has the responsibility to protect the public from unnecessary exposure from radiation from electronic products. The regulations issued under these authorities are listed in the Code of Federal Regulations, title 21, chapter I, subchapter J. Specifically, subchapter A regulations, 21 CFR 5.10(a)(3), 5.25(b), 5.35(a)(4), and 5.600 through 5.606, delegate administrative authorities to FDA.

Section 532 of the act directs the Secretary of the Department of Health and Human Services (the Secretary) to establish and carry out an electronic product radiation control program, including the development, issuance, and administration of performance standards to control the emission of electronic product radiation from electronic products. The program is designed to protect the public health and safety from electronic radiation, and the act authorizes the Secretary to procure (by negotiation or otherwise) electronic products for research and testing purposes and to sell or otherwise dispose of such products.

Section 534(g) of the act directs the Secretary to review and evaluate industry testing programs on a continuing basis; and section 535(e) and (f) of the act directs the Secretary to immediately notify manufacturers of, and ensure correction of, radiation defects or noncompliances with performance standards.

Section 537(b) of the act contains the authority to establish and maintain records (including testing records), make reports, and provide information to determine whether the manufacturer has acted in compliance.

Parts 1002 through 1010 (21 CFR parts 1002 through 1010) specify reports to be provided by manufacturers and distributors to FDA and records to be maintained in the event of an investigation of a safety concern or a product recall.

FDA conducts laboratory compliance testing of products covered by regulations for product standards in parts 1020, 1030, 1040, and 1050 (21 CFR parts 1020, 1030, 1040, and 1050).

FDA details product-specific performance standards that specify information to be supplied with the product or require specific reports. The information collections are either specifically called for in the act or were developed to aid the agency in performing its obligations under the act. The data reported to FDA and the records maintained are used by FDA and the industry to make decisions and take actions that protect the public from radiation hazards presented by electronic products. This information refers to the identification of, location of, operational characteristics of, quality assurance programs for, and problem identification and correction of electronic products. The data provided to users and others are intended to

encourage actions to reduce or eliminate radiation exposures.

FDA uses the following forms to aid respondents in the submission of information for this information collection: (1) Form FDA 2767, ''Notice of Availability of Sample Electronic Product,'' (2) Form FDA 2877, ''Declaration for Imported Electronic Products Subject to Radiation Control Standards,'' and (3) Form FDA 3147, ''Application for a Variance From 21 CFR 1040.11(c) for a Laser Light Show, Display, or Device.''

The most likely respondents to this information collection will be electronic product and x-ray manufacturers, importers, and assemblers.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	Form Number	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
1002.3		10	1	10	12	120
1002.10 and 1010.3		540	1.6	850	24	20,400
1002.11		1,000	1.5	1,500	0.5	750
1002.12		150	1	150	5	750
1002.13 Annual		900	1	900	26	23,400
1002.13 Qtrly		250	2.4	600	0.5	300
1002.20		40	1	40	2	80
1002.50(a) and 1002.51		10	1.5	15	1	15
	FDA 2877	600	32	19,200	0.2	3,840
1010.2		1	1	1	5	5
1010.4 (b)		1	1	1	120	120
1010.5 and 1010.13		3	1	3	22	66
	FDA 2767	145	11.03	1,600	0.09	144
1020.20 (c)(4)		1	1	1	1	1
1020.30(d), (d)(1), and (d)(2)	FDA 2579	2,345	8.96	21,000	0.30	6,300
1020.30 (g)		200	1.33	265	35	9,275
1020.30(h)(1) through (h)(4), 1020.32(a)(1) and (g)		200	1.33	265	35	9,275
1020.32(g) and 1020.33(c), (d), (g)(4), (j)(1), and (j)(2)		9	1	9	40	360
1020.40(c)(9)(i) and (c)(9)(ii)		8	1	8	40	320
1030.10(c)(4)		41	1.61	66	20	1,320
1030.10(c)(5)(i) through (c)(5)(iv)		41	1.61	66	20	1,320
1030.10(c)(6)(iii) and (c)(6)(iv)		1	1	1	1	1
1040.10(a)(3)(i)		83	1	83	3	249
1040.10(h)(1)(i) through (h)(1)(vi)		805	1	805	8	6,440

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]—Continued

21 CFR Section	Form Number	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
1040.10(h)(2)(i) and (h)(2)(ii)		100	1	100	8	800
1040.11(a)(2)		190	1	190	10	1,900
1040.11(c)	FDA 3147	53	2.2	115	0.5	58
1040.20(d), (e)(1), and (e)(2)		110	1	110	10	1,100
1040.30(c)(1)		1	1	1	1	1
1040.30(c)(2)		7	1	7	1	7
1050.10(f)(1) through (f)(2)(iii)		10	1	10	56	560
Total Annual Reporting Burden						89,278

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
1002.30 and 1002.31(a)	1,150	1,655.5	1,903,825	198.7	228,505
1002.40 and 1002.41	2,950	49.2	145,140	2.4	7,080
1020.30(g)(2)	22	1	22	0.5	11
1040.10(a)(3)(ii)	83	1	83	1.0	83
Totals					235,679

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

The burden estimates were derived by consultation with FDA and industry personnel and actual data collected from industry over the past 3 years. An evaluation of the type and scope of information requested was also used to derive some time estimates. For example, disclosure information primarily requires time only to update and maintain existing manuals. Initial development of manuals has been performed except for new firms entering the industry. When information is generally provided to users, assemblers, or dealers in the same manual, they have been grouped together in the ''Estimated Annual Reporting Burden'' table.

The following information collection requirements are not subject to review by OMB because they do not constitute a ''collection of information'' under the PRA: Sections 1002.31(c); 1003.10(a), (b), and (c); 1003.11(a)(3) and (b); 1003.20(a) through (h); 1003.21(a) through (d); 1003.22(a) and (b); 1003.30(a) and (b); 1003.31(a) and (b); 1004.2(a) through (i); 1004.3(a) through (i); 1004.4(a) through (h); and 1005.21(a) through (c). These requirements ''apply to the collection of information during the conduct of general investigations or audits'' (5 CFR 1320.4(b)). The following labeling requirements are also not subject to review under the PRA because they are a public disclosure of information originally supplied by the Federal Government to the recipient for the purpose of disclosure to the public (5 CFR 1320.3(c)(2)): Sections 1020.10(c)(4), 1030.10(c)(6), 1040.10(g), 1040.30(c)(1), and 1050.10(d)(1).

Dated: June 5, 2003.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 03–14821 Filed 6–11–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98D–0727]

Interpretation of On-Farm Feed Manufacturing and Mixing Operations; Withdrawal of Draft Guidance

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; withdrawal of draft guidance.

SUMMARY: The Food and Drug Administration (FDA) is announcing the withdrawal of a draft guidance for industry (#77) entitled ''Interpretation of On-farm Feed Manufacturing and Mixing Operations,'' that was issued on September 23, 1998. FDA has decided to withdraw the draft guidance. FDA has decided that the draft guidance did not address adequately the industry

practices of on-farm mixers. Instead, the agency directs you to FDA guidance for industry (#69) entitled ''Small Entities Compliance Guide for Feeders of Ruminant Animals With On-farm Feed Mixing Operations,'' which addresses on-farm mixing practices more completely.

FOR FURTHER INFORMATION CONTACT: Neal Bataller, Center for Veterinary Medicine (HFV–214), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0163, e-mail: *nbatalle@cvm.fda.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

In a notice published in the **Federal Register** of September 23, 1998 (63 FR 50918), FDA announced the availability of a draft guidance for industry (#77) entitled ''Interpretation of On-farm Feed Manufacturing and Mixing Operations.'' The draft guidance discusses the applicability of certain paragraphs of 21 CFR 589.2000 *Animal proteins prohibited in ruminant feed*. Written comments were to be received by November 23, 1998.

FDA received one letter containing several comments from an industry association on the draft guidance. The comments from the association expressed that they were ''extremely concerned'' that the draft guidance would be ''extremely difficult to monitor and administer'' in the section concerning commingling or cross-contamination of prohibited with nonprohibited mammalian protein. The comment further indicated that the draft guidance did not capture the regulation's requirements regarding equipment clean-out procedures.

After further consideration, FDA has decided to withdraw the draft guidance. FDA has decided that the draft guidance did not address adequately the industry practices of on-farm mixers. Instead, the agency directs you to FDA guidance for industry (#69) entitled ''Small Entities Compliance Guide for Feeders of Ruminant Animals With On-farm Feed Mixing Operations,'' which addresses on-farm mixing practices more completely.

II. Electronic Access

Persons with access to the Internet may obtain FDA guidance for industry #69 at *http://www.fda.gov/cvm/guidance/guidance.html*.

Dated: June 4, 2003.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 03–14820 Filed 6–11–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 03D–0051]

International Cooperation on Harmonization of Technical Requirements for Registration of Veterinary Medicinal Products (VICH); Draft Guidance for Industry on ''Pre-Approval Information for Registration of New Veterinary Medicinal Products for Food-Producing Animals With Respect to Antimicrobial Resistance'' (VICH GL27); Request for Comments; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry (#144) entitled ''Pre-Approval Information for Registration of New Veterinary Medicinal Products for Food-Producing Animals with Respect to Antimicrobial Resistance'' (VICH GL27). This draft guidance has been developed for veterinary use by the International Cooperation on Harmonization of Technical Requirements for Registration of Veterinary Medicinal Products (VICH). This draft VICH guidance document is an initial step in developing harmonized technical guidance in the European Union, Japan, and the United States for approval of therapeutic antimicrobial veterinary medicinal products intended for use in food-producing animals with regard to characterization of antimicrobial resistance selection in bacteria of human health concern. The draft guidance outlines the types of studies and data which are recommended for assessing the potential for resistance to develop in association with the use of antimicrobial drugs in food-producing animals.

DATES: Submit written or electronic comments on the draft guidance by July 14, 2003, to ensure their adequate consideration in preparation of the final document. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Communications Staff (HFV–12), Center for Veterinary Medicine (CVM), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

Submit written comments on the draft guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to http://www.fda.gov/dockets/ecomments. Comments should be identified with the full title of the draft guidance and the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: William T. Flynn, Center for Veterinary Medicine (HFV–2), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 301–827–4514, e-mail: wflynn@cvm.fda.gov.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of September 13, 2002 (67 FR 58058), FDA announced the availability of a related draft guidance for industry (#152) entitled ''Evaluating the Safety of Antimicrobial New Animal Drugs With Regard to Their Microbiological Effects on Bacteria of Human Health Concern.'' Draft guidance #152 represents FDA's current thinking on an approach for using data, such as that outlined in the VICH draft guidance, for completing an assessment on the safety of antimicrobial drugs that focuses on antimicrobial resistance concerns. The publication of the draft VICH guidance (#144) in the United States was delayed until FDA developed an understanding of how the outlined data could be incorporated into an assessment process such as that described in the FDA draft guidance #152.

In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote the international harmonization of regulatory requirements. FDA has participated in efforts to enhance harmonization and has expressed its commitment to seek scientifically based harmonized technical procedures for the development of pharmaceutical products. One of the goals of harmonization is to identify and then reduce differences in technical requirements for drug development among regulatory agencies in different countries.

FDA has actively participated in the International Conference on Harmonization of Technical Requirements for Approval of Pharmaceuticals for Human Use for several years to develop harmonized technical requirements for the approval

of human pharmaceutical and biological products among the European Union, Japan, and the United States. The VICH is a parallel initiative for veterinary medicinal products. The VICH is concerned with developing harmonized technical requirements for the approval of veterinary medicinal products in the European Union, Japan, and the United States, and includes input from both regulatory and industry representatives.

The VICH Steering Committee is composed of member representatives from the European Commission, European Medicines Evaluation Agency, European Federation of Animal Health, Committee on Veterinary Medicinal Products, the U.S. FDA, the U.S. Department of Agriculture, the Animal Health Institute, the Japanese Veterinary Pharmaceutical Association, the Japanese Association of Veterinary Biologics, and the Japanese Ministry of Agriculture, Forestry and Fisheries.

Four observers are eligible to participate in the VICH Steering Committee: One representative from the government of Australia/New Zealand, one representative from the industry in Australia/ New Zealand, one representative from the government of Canada, and one representative from the industry of Canada. The VICH Secretariat, which coordinates the preparation of documentation, is provided by the Confédération Mondiale de L'Industrie de la Santé Animale (COMISA). A COMISA representative also participates in the VICH Steering Committee meetings.

II. Draft Guidance on Antimicrobial Resistance

The VICH Steering Committee held a meeting on June 28, 2001, and agreed that the draft guidance document entitled ''Pre-Approval Information for Registration of New Veterinary Medicinal Products for Food Producing Animals with Respect to Antimicrobial Resistance'' (VICH GL27) should be made available for public comment. However, subsequent to the June 2001 Steering Committee meeting, the FDA decided to delay the publication of the draft VICH guidance in the United States until the FDA draft guidance (#152) related to antimicrobial resistance was published. FDA believed that it was important to first develop its thinking on how data, such as that described in the draft VICH guidance, could be used for completing an assessment on antimicrobial resistance.

The draft VICH guidance is an initial step in developing harmonized technical guidance in the European Union, Japan, and the United States for approval of therapeutic antimicrobial veterinary medicinal products intended for use in food-producing animals with regard to characterization of antimicrobial resistance selection in bacteria of human health concern.

This draft guidance outlines the types of studies and data that may be used to characterize the potential for resistance to develop in the target animal when an antimicrobial drug product is used under the proposed conditions. This includes information which describes the drug substance, drug product, nature of the resistance, and potential exposure of gut flora in the target animal species.

FDA and the VICH Expert Working Group on Antimicrobial Resistance will consider comments about the draft guidance document. Information collection is covered under the Office of Management and Budget control number 0910–0032.

III. Significance of Guidance

This draft document, developed under the VICH process, has been revised to conform to FDA's good guidance practices regulation (21 CFR 10.115). For example, the document has been designated ''guidance'' rather than ''guideline.'' Because guidance documents are not binding, mandatory words such as ''must,'' ''shall,'' and ''will'' in the original VICH document have been substituted with ''should.'' Similarly, words such as ''require'' or ''requirement'' have been replaced by ''recommend'' or ''recommendation'' as appropriate to the context.

The draft VICH guidance (#144) is consistent with the agency's current thinking, described in draft guidance #152, on the type of preapproval information that should be considered for new veterinary medicinal products for food-producing animals with regard to characterization of antimicrobial resistance selection in bacteria of human health concern. This guidance does not create or confer any rights for or on any person and will not operate to bind FDA or the public. An alternative method may be used as long as it satisfies the requirements of applicable statutes and regulations.

IV. Comments

This draft guidance document is being distributed for comment purposes only and is not intended for implementation at this time. Interested persons may submit written or electronic comments regarding this draft guidance document to the Dockets Management Branch (see **ADDRESSES**). Submit written or electronic comments to ensure adequate consideration in preparation of the final guidance. Two copies of any mailed comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. A copy of the draft guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

V. Electronic Access

Electronic comments may also be submitted electronically on the Internet at http://www.fda.gov/dockets/ecomments. Once on this Internet site, select Docket No. 03D–0051 ''Pre-Approval Information for Registration of New Veterinary Medicinal Products for Food-Producing Animals with Respect to Antimicrobial Resistance'' and follow the directions.

Copies of the draft guidance document entitled ''Pre-Approval Information for Registration of New Veterinary Medicinal Products for Food-Producing Animals with Respect to Antimicrobial Resistance'' (VICH GL27) may be obtained on the Internet from the CVM home page at http://www.fda.gov/cvm.

Dated: June 4, 2003.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 03–14822 Filed 6–11–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

HRSA–03–019 Fiscal Year 2003 Geriatric Academic Career Awards (GACA)—CFDA 93.250

AGENCY: Health Resources and Services Administration.

ACTION: Notice.

SUMMARY: The Health Resources and Services Administration (HRSA) announces that applications will be accepted for the second of two solicitations for the Geriatric Academic Career Awards Program for Fiscal Year 2003.

Purpose: The purpose of this program is to increase the number of junior faculty in geriatrics at accredited schools of medicine and osteopathic medicine and to promote their careers as academic geriatricians. The GACA stipend supports the career development of junior faculty members for a period of five years.

Authorizing Legislation: These applications are solicited under the

authority of Title VII, section 753 (c), of the Public Health Service Act (PHS), (42 U.S.C. 294c).

Eligible Applicants: Geriatric Academic Career Awards are provided for individuals who meet the following criteria: (1) Are board certified or board eligible in internal medicine, family practice, or psychiatry; (2) have completed an approved fellowship program in geriatrics; and (3) have a junior faculty appointment at an accredited school of medicine (allopathic or osteopathic).

Funding Priorities and/or Preferences: None.

Service Requirements: Award recipients agree to serve as members of the faculties of accredited schools of allopathic or osteopathic medicine providing teaching services, within the service requirements under this award, for up to 5 years. Prior to submitting an application for the Geriatric Academic Career Award, individuals must have an agreement with an eligible school setting forth the terms and conditions of the award. The agreement with the school must permit the individual to serve as a full-time (as determined by the school) member of the faculty, for not less than the period of the award. As provided in section 753 (c)(5), an individual who receives an award shall provide training in clinical geriatrics, including the training of interdisciplinary teams of health care professionals. The provision of such training shall constitute at least 75 percent of the obligations of the individual under this award. Geriatric career awards are made directly to individuals, not institutions.

Review Criteria

(1) Extent to which the applicant's career goals as identified in the career development plan meet the purpose of the Geriatric Academic Career Award—to develop into an academic geriatrician who emphasizes teaching geriatrics, including teaching interdisciplinary teams—and the quality of the applicant's plan for assessing his or her own progress toward meeting career goals; (Maximum Value: 20 points)

(2) Potential of the applicant to achieve identified goals and objectives based on past training and experience; (Maximum: 20 points)

(3) Extent to which specific plans will result in (a) meeting the statutory service requirement (75% time pursuing the goals of the GACA), (b) interacting with and learning from other clinician-educators locally and nationally, and (c) obtaining the necessary pedagogical skills to achieve career goals; (Maximum Value: 20 points)

(4) Extent to which specific plans will result in research and/or publication opportunities and productivity in national professional societies; (Maximum Value: 20 points)

(5) Extent to which the commitment of the mentor and institution to provide a supportive environment for the achievement of the applicant's career goals and willingness to meet reporting requirements are demonstrated. (Maximum Value: 20 points)

Estimated Amount of Available Funds: It is estimated that $1 million will be available for this second solicitation in fiscal year 2003.

Estimated Number of Awards: The estimated number of awards will be 20.

Estimated or Average Size of Each Award: The estimated size of each award will be $55,000.

Estimated Project Period: Applications may be submitted for a five-year grant period. The first budget period is September 1, 2003–August 31, 2004; the second budget period is September 1, 2004–September 29, 2005; the third budget period is September 30, 2005–September 29, 2006; the fourth budget period is September 30, 2005–September 29, 2006; the fifth budget period is September 30, 2006–September 29, 2007.

Application Requests, Availability, Dates and Addresses: Application materials are available for downloading via the Web at *http://bhpr.hrsa.gov/grants.htm*. In order to be considered for competition, applications must be postmarked or delivered by July 14, 2003, to the HRSA's Grants Management Office ATTN: GACA, 5600 Fishers Lane, Room 11A–33, Rockville, MD 20857. Applicants should request a legibly dated U.S. Postal postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered Postmarks shall not be acceptable as proof of timely mailing. Applications submitted after the deadline date will be returned to the applicant and not processed. Applicants should note that HRSA anticipates accepting grant applications online in the last quarter of the Fiscal Year (July through September). Please refer to the HRSA grants schedule at *http://www.hrsa.gov/grants.htm* for more information.

Projected Award Date: September 30, 2003.

For Further Information Contact: Kathleen Bond, Division of State, Community and Public Health, Bureau of Health Professions, HRSA, Room 8–103, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Telephone number: (301) 443–8681. E-mail: *kbond@hrsa.gov.*

Paperwork Reduction Act

The Application for the Geriatric Academic Career Awards Program has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. The OMB clearance number is 0915–0060. The program is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented through 45 CFR part 100).

Dated: May 29, 2003.

Elizabeth M. Duke,

Administrator.

[FR Doc. 03–14859 Filed 6–11–03; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

North American Wetlands Conservation Council (Council) Meeting Announcement

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: The Council will meet to select North American Wetlands Conservation Act (NAWCA) grant proposals for recommendation to the Migratory Bird Conservation Commission (Commission). The meeting is open to the public.

DATES: July 9, 2003, 1 p.m.

ADDRESSES: The meeting will be held at the Hotel Loews Le Concorde, 1225 Place Montcalm, Quebec City, Quebec, Canada. The Council Coordinator is located at U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Mail Stop: MBSP 4501–4075, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: David A. Smith, Council Coordinator, (703) 358–1784 or *dbhc@fws.gov.*

SUPPLEMENTARY INFORMATION: In accordance with NAWCA (Pub. L. 101–233, 103 Stat. 1968, December 13, 1989, as amended), the State-private-Federal Council meets to consider wetland acquisition, restoration, enhancement and management projects for recommendation to, and final funding approval by, the Commission. Proposal due dates, application instructions, and eligibility requirements are available through the NAWCA Web site at *http://birdhabitat.fws.gov.* Proposals require a minimum of 50 percent non-Federal matching funds. Canadian, Mexican, U.S. Standard and U.S. Small grant proposals will be considered at the

Council meeting. The tentative date for the Commission meeting is September 10.

Dated: May 30, 2003.

Paul R. Schmidt,

Assistant Director—Migratory Birds and State Programs.

[FR Doc. 03–14839 Filed 6–11–03; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UTU 78566]

Public Land Order No. 7552; Withdrawal of National Forest System Lands for the Trial, Washington, and Lost Lake Dams, Bonneville Unit, Central Utah Project; Utah; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction.

SUMMARY: This action corrects an error in the land description published as FR Doc. 03–3566 in the **Federal Register**, 68 FR 7388, February 13, 2003, for a Bureau of Reclamation withdrawal.

On page 7388, column 2, line 14 from the bottom, which reads ''NW½NE¼SE¼, SE¼NE¼SE¼,'' is hereby corrected to read ''W½NE¼SE¼, SE¼NE¼SE¼,''

Dated: June 6, 2003.

Kent Hoffman,

Deputy State Director, Division of Lands and Minerals.

[FR Doc. 03–14843 Filed 6–11–03; 8:45 am]

BILLING CODE 4310–94–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–958–1430–ET; HAG–03–0011; WAOR–57965]

Notice of Proposed Withdrawal and Opportunity for Public Meeting; Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management proposes to withdraw approximately 276.41 acres of public lands, for a period of 20 years, to protect the unique natural, scenic, and recreation values, and the investment of Federal funds on 11 tracts in the San Juan Archipelago. This notice segregates the lands for up to 2 years from location and entry under the United States mining laws. The lands will remain open to the public land and mineral leasing laws.

DATES: Comments and requests for a public meeting must be received by September 10, 2003.

ADDRESSES: Comments and meeting requests should be sent to the Oregon/Washington State Director, BLM, P.O. Box 2965, Portland, Oregon 97208–2965.

FOR FURTHER INFORMATION CONTACT: William Schurger, Wenatchee Field Office, 509–665–2116, or, Charles R. Roy, BLM Oregon/Washington State Office, 503–808–6189.

SUPPLEMENTARY INFORMATION: The Bureau of Land Management has filed an application to withdraw the following described public lands from location and entry under the United States mining laws, subject to valid existing rights:

Willamette Meridian

Tract I (Lopez Island: Chadwick Hill/ Watmough Bay):

T. 34 N., R. 1 W.,
Sec. 21, lot 1, NW¼NW¼.

Tract L (Lopez Island: Cape St. Mary):

T. 34 N., R. 1 W.,
Sec. 15, lot 1.

Tract M (Lopez Island: Lopez Pass):

T. 35 N., R. 1 W.,
Sec. 33, lot 1.

Tract N (Eliza Island: south end):

T. 36 N., R. 2 E.,
Sec. 5, unsurveyed portion of Eliza Island.

Tract O (Lummi Island: Carter Point):

T. 36 N., R. 2 E.,
Sec. 6, unsurveyed portion of Lummi Island.

Tract P (Lummi Rocks):

T. 37 N., R. 1 E.,
Sec. 27, unsurveyed Lummi Rocks in the NW¼ and SW¼NE¼.

Tract Q (Chuckanut Rock):

T. 37 N., R. 2 E.,
Sec. 24, unsurveyed Chuckanut Rock.

The portions of the following lands are more particularly identified and described by metes and bounds in the official records of the Bureau of Land Management:

Tract H (Lopez Island: NW Chadwick Hill & Wetland):

T. 34 N., R. 1 W.,
Sec. 17, m&b in SE¼.

Tract J (Lopez Island: Watmough Bay):

T. 34 N., R. 1 W.,
Sec. 21, m&b in lot 2, and SW¼NW¼.

Tract K (Lopez Island: Watmough Head & Watmough Bay):

T. 34 N., R. 1 W.,
Sec. 21, m&b in lot 2.

Tract R (west end of Patos Island):

T. 38 N., R. 2 W.,
Sec. 17, most westerly 5 acres of Patos Island.

The areas described aggregate approximately 276.41 acres in San Juan and Whatcom Counties.

All persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing, by the date specified above, to the State Director at the address indicated above.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested parties who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the State Director at the address indicated above within 90 days from the publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR part 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the lands will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date. The temporary land uses which may be permitted during this segregative period include licenses, permits, rights-of-way, and disposal of vegetative resources other than under the mining laws.

Dated: May 29, 2003.

Helen L. Honse,

Acting Chief, Branch of Realty and Records Services.

[FR Doc. 03–14862 Filed 6–11–03; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Settlement Agreement Under the Resource Conservation and Recovery Act (RCRA) and the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)

Notice is hereby given that on May 30, 2003, a proposed Consent Decree in *United States and State of Illinois* v. *National Steel Corporation,* Case No. 1:03cv3338 was lodged with the United

States District Court for the Northern District of Illinois.

In this action the United States sought civil penalties and injunctive relief arising from National Steel Corporation's improper characterization and disposal of hazardous wastes in an on-site landfill at its Granite City Division facility in Granite City, Illinois. The Consent Decree provides that National Steel Corporation will close its on-site landfill and increase the monitoring and post-closure care of its landfill. In addition, the Consent Decree requires payment of a civil penalty of $500,000. Payment of the penalty will be subject to procedures in National Steel Corporation's Chapter 11 Bankruptcy proceeding, *In Re: National Steel Corporation, et al.,* No. 02–08699 (Bankr. N.D. Ill., filed March 6, 2002).

National Steel Corporation is currently negotiating the final terms for a court-approved transfer of its assets to the United States Steel Corporation. Therefore the Consent Decree provides a procedure for United States Steel Corporation to assume the obligations of National Steel Corporation once the Bankruptcy Court has approved the final transfer of assets.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States and State of Illinois* v. *National Steel Corporation,* D.J. Ref. 90–11–3–07887. Commenters may request an opportunity for a public meeting in the affected area, in accordance with section 7003(d) of RCRA, 42 U.S.C. 6973(d).

The Consent Decree may be examined at the Office of the United States Attorney, Northern District of Illinois, 219 South Dearborn Street, Suite 300, Chicago, IL 60604 and at U.S. EPA Region 5, 77 West Jackson Boulevard, Chicago, IL 60604. During the public comment period, the Consent Decree may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/open.html.* A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $7.00 (25 cents per page reproduction cost) payable to the U.S. Treasury.

William D. Brighton,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 03–14825 Filed 6–11–03; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decrees Under the Clean Water Act and Under the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that on June 2, 2003, two (2) proposed Consent Decrees in *United States and State of Colorado* v. *Rico Development Corporation, Janice Graham, Independent Executor of the Estate of Wayne Webster, and Gary M. Sell, Personal Representative of the Estate of Virginia Sell,* Civil Action No. 99–MK–1386, were lodged with the United States District Court for the District of Colorado.

In this action, Plaintiffs United States and the State of Colorado sought injunctive relief pursuant to the Clean Water Act, 33 U.S.C. 1251 *et seq.,* and pursuant to the Colorado Water Quality Control Act, Section 25–8–101 *et seq.,* Colorado Revised Statutes, for alleged violations of Rico Development Corporation's (''RDC'') Colorado Discharge Permit System permit (''Permit''). Plaintiffs also sought, pursuant to Section 7–114–108, C.R.S., recovery of assets distributed by RDC to its shareholders, Wayne Webster and Virginia Sell. Additionally, the United States sought to recover costs incurred by it for response action performed under the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), 42 U.S.C. 9601 *et seq.,* at RDC's mine wastewater treatment facility located at the Rico Argentine mine site near Rico, Colorado (the ''Site'').

The alleged Clean Water Act violations occurred over the course of several years during which RDC exceeded its Permit limits on numerous occasions and discharged at another location without authorization. The United States also sought compensation for response costs incurred by it in connection with a cleanup of hazardous substances performed at the Site. Under Section 107(a)(1) of CERCLA, 42 U.S.C. 9607(a)(1), the United States alleged that the defendants, as current owners, or as past owners and operators at the time of disposal, are liable for those response costs incurred by the United States not inconsistent with the national contingency plan. In the proposed Consent Decrees, Defendant Janice Graham, Independent Executor of the Estate of Wayne Webster, and Gary M. Sell, Personal Representative of the Estate of Virginia Sell, agree, respectively, to pay the United States $180,000 and $110,000, which sums will be deposited by the United States Environmental Protection Agency (''EPA'') in the Rico-Argentine Special Account within the EPA Hazardous Substance Superfund to be retained and used to conduct or finance response actions at or in connection with the Site, or to be transferred by EPA to the EPA Hazardous Substance Superfund.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decrees. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, PO Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States and State of Colorado* v. *Rico Development Corporation, Janice Graham, Independent Executor of the Estate of Wayne Webster, and Gary M. Sell, Personal Representative of the Estate of Virginia Sell,* D.J. Ref. DJ#90–5–1–1–06498.

The Consent Decrees may be examined at U.S. EPA Region 8,999 18th Street, Suite 300, Denver, Colorado, 80202. During the public comment period, the Consent Decrees may also be examined on the following Department of Justice website, *http://www.usdoj.gov/enrd/open.html.* A copy of each Consent Decree may also be obtained by mail from the Consent Decree Library, PO Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $3.00 for the Consent Decree with Janice Graham, Independent Executor of the Estate of Wayne Webster and $2.80 for the Consent Decree with Gary M. Sell, Personal Representative of the Estate of Virginia Sell.

Robert D. Brook,

Assistant Chief, Environmental, Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 03–14824 Filed 6–11–03; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree for Relief Under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980

Under 28 CFR 50.7, notice is hereby given that on May 16, 2003, a proposed Consent Decree resolving the United States' claims in *United States of America* v. *Edward Schwarz, et al.,* Civil Action No. 1:02–CV–568, was lodged with the United States District Court for the Western District of Michigan.

In this action the United States sought recovery of response costs incurred in performing a removal action at the Orbit Enterprise Superfund Site located at 344 through 368 Burnham Street in Battle Creek, Michigan (''the Site''), pursuant to section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability of 1980, as amended (''CERCLA''), 42 U.S.C. 9607(a). The United States asserts that Donald and Charlotte Walter, whose estates are now represented by the defendants, owned and operated the Site during the time that hazardous substances were released at the Site.

Pursuant to the Consent Decree, the defendants will pay the United States $400,000 of the $725,202.97 in past response costs incurred by the EPA (including administrative, enforcement, and indirect costs) in performing a removal action at the Site. This payment will be due within 30 days after entry of the Consent Decree, and will resolve the United States' cost recovery claim the Walters' liability for failing to respond to an EPA information request issued pursuant to section 104(e) of CERCLA, and the EPA lien previously placed on the Site property.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, PO Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States of America* v. *Edward Schwarz, et al.,* Civil Action No. 1:02–CV–568, DOJ Ref. No. 90–11–3–07524.

The Consent Decree may be examined at the Office of the United States Attorney, 330 Ionia Avenue NW., Grand Rapids, MI 49503, and at U.S. EPA, Region 5, 77 West Jackson Boulevard, Chicago, IL 60604. During the public comment period, the Consent Decree may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/open.html.* a copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, PO Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy, please enclose a check in the amount of $6.25 payable to the U.S. Treasury.

William Brighton,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 03–14823 Filed 6–11–03; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-day Notice of Information Collection Under Review: Extension of a Currently Approved Collection, U.S. Official Order Forms for Schedules I and II Controlled Substances (Accountable Forms), Order Form Requisition.

The Department of Justice (DOJ), Drug Enforcement Administration (DEA) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register**, Volume 68, Number 66, page 16830 on April 7, 2003, allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until July 14, 2003. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to The Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) Type of Information Collection: Extension of a Currently Approved Collection.

(2) Title of the Form/Collection: U.S. Official Order Forms for Schedules I and II Controlled Substances (Accountable Forms), Order Form Requisition.

(3) Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form Number: DEA Form 222, DEA Form 222a. Office of Diversion Control, Drug Enforcement Administration, U.S. Department of Justice.

(4) Affected public who will be asked or required to respond, as well as a brief abstract: Primary: Business or other for-profit. Other: Federal Government, State, Local or Tribal Government, nonprofit entities. Abstract: DEA–222 is used to transfer or purchase Schedule I and II controlled substances and data is needed to provide an audit of transfer and purchase. DEA–222a Requisition Form is used to obtain the DEA–222 Order Form. Respondents are DEA registrants eligible to handle these controlled substances.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: It is estimated that there are a total of 100,870 respondents to this information collection. It is estimated to take 0.05 hours for a purchaser to requisition DEA Forms 222, using DEA Form 222a. It is estimated to take purchasers 0.333 hours to complete,

annotate and file each order. It is estimated to take suppliers 0.333 hours to enter data regarding each order into a computer system, annotate the order and file it. It is estimated to take suppliers 9 hours a month to log and track DEA Forms 222 and prepare the monthly mailing of required information to DEA. it is estimated to take 0.25 hours to sign and execute each power of attorney letter. The annual average time spent is dependent on the number of orders completed and filled.

(6) An estimate of the total public burden (in hours) associated with the collection:

The average annual total public burden is 3.9 million hours, assuming a 6 percent annual growth rate in the number of orders.

If additional information is required contact: Robert B. Briggs, Department Clearance Officer, Information Management and Security Staff, Justice Management Division, United States Department of Justice, Patrick Henry Building, Suite 1600, 601 D Street NW., Washington, DC 20530.

Dated: June 9, 2003.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 03–14884 Filed 6–11–03; 8:45 am]

BILLING CODE 4410–09–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (03–062)]

Privacy Act: Report of New System

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of New System of Records.

SUMMARY: Each Federal agency is required by the Privacy Act of 1974 to publish description of the systems of records it maintains containing personal information when a system is substantially revised, deleted, or created. In this notice, NASA provides the required information for a new system of records related to NASA's Integrated Financial Management Program (IFMP) Core Financial System. This new system will improve NASA's financial management systems in accordance with the requirements set forth in the Chief Financial Officers Act of 1990 and the Federal Financial Management Improvement Act of 1996.

DATES: Effective date: June 12, 2003. Submit comments on or before July 14, 2003.

ADDRESSES: Send comments to Office of the Chief Information Officer, Code AO, NASA Headquarters, 300 E Street SW., Washington, DC 20546–0001.

FOR FURTHER INFORMATION CONTACT: Patti F. Stockman, 202–358–4787.

NASA 10IMF1

SYSTEM NAME:

Integrated Financial Management (IFM) Program—Core Financial System.

SECURITY CLASSIFICATION:

This system is categorized in accordance with OMB Circular A–11 as a Special Management Attention Major Information System. A security plan for this system has been established in accordance with OMB Circular A–130, Management of Federal Information Resources.

SYSTEM LOCATION:

George C. Marshall Space Flight Center, National Aeronautics and Space Administration, Marshall Space Flight Center, AL 35812

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by the NASA Core Financial (CF) System include former and current NASA employees and nonNASA individuals requiring any type of payment.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in this system may include information about the individuals including Social Security Number (Tax Identification Number), home address, telephone number, e mail address, and bank account information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Aeronautics and Space Act of 1958, *et seq*. as amended. 42 U.S.C. 2473 (2003); Federal Records Act, 44 U.S.C. 3101 (2003); Chief Financial Officers Act of 1990 205(a), 31 U.S.C. 901 (2003); Financial Management Improvement Act of 1996 802, 31 U.S.C. 3512 (2003).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The following are routine uses: (1) Furnish data to the Department of Treasury for financial reimbursement of individual expenses, such as travel, books, and other miscellaneous items; (2) Process payments and collections in which an individual is reimbursing the Agency; (3) Ongoing administration and maintenance of the records, which is performed by authorized NASA employees, both civil servants and contractors; and (4) Standard routine uses 1 through 4 inclusive as set forth in Appendix B—STANDARD ROUTINE USES—NASA.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Stored as electronic media.

RETRIEVABILITY:

Records may be searched by name or SSN (Tax ID).

SAFEGUARDS:

An approved security plan for this system has been established in accordance with OMB Circular A–130, Management of Federal Information Resources. Individuals will have access to the system only in accordance with approved authentication methods. Only key authorized employees with appropriately configured system roles can access the system and only from workstations within the NASA Intranet.

RETENTION AND DISPOSAL:

Records are stored in the IFM database and managed, retained and dispositioned in accordance with the guidelines defined in the NASA Procedure & Guidelines (NPG) 1441.1D, NASA Records Retention Schedules, Schedule 9.

SYSTEM MANAGER(S) AND ADDRESS:

AD04/Manager of the IFMP Competency Center, George C. Marshall Space Flight Center, National Aeronautics and Space Administration, Marshall Space Flight Center, AL 35812

NOTIFICATION PROCEDURE:

Individuals interested in inquiring about their records should notify the System Manager at the address given above.

RECORD ACCESS PROCEDURE:

Individuals who wish to gain access to their records should submit their request in writing to the System Manager at the address given above.

CONTESTING RECORD PROCEDURES:

The NASA regulations governing access to records, procedures for contesting the contents and for contesting the contents and for appealing initial determinations are set forth in 14 CFR part 1212.

RECORD SOURCE CATEGORIES:

The information is received by the IFMP Core Financial System through an electronic interface from the NASA Personnel Payroll System (NPPS). In certain circumstances, updates to this information may be submitted by NASA

employees and recorded directly into the IFMP Core Financial System.

Bobby German,

Deputy Program Director.

[FR Doc. 03–14053 Filed 6–11–03; 8:45 am]

BILLING CODE 7510–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 040–08006]

Environmental Assessment and Finding of No Significant Impact for Kerr McGee Corporation's Request to Amend Source Materials License

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is considering an amendment to Kerr McGee Corporation's Source Materials License SUB–986. The proposed amendment will approve the Derived Concentration Guideline Levels (DCGLs) and Decommissioning Plan (DP) with consideration of license termination for the Kerr McGee Technical Center located in Oklahoma City, Oklahoma. An Environmental Assessment (EA) was performed by the NRC staff in support of its review of Kerr McGee's license termination request, in accordance with the requirements of 10 CFR part 51. The conclusion of the EA is a Finding of No Significant Impact (FONSI) for the proposed licensing action.

II. Environmental Assessment

Background

This EA is being performed to evaluate the environmental impacts of the proposed amendment to Kerr McGee Corporation's Source Materials License SUB–986, to approve the DCGLs and the DP and subsequent termination of the source materials license for unrestricted release of facilities used under the license located at the Technical Center in Oklahoma City, Oklahoma. The license termination will be based upon NRC staff's approval of the licensee's Final Status Survey Report as required by the DP.

The Technical Center was established in 1963 to provide research and development for conducting chemical and radiochemical laboratory analysis. The primary use of the source material was for the development, testing and calibration of instruments used for the company's mineral prospecting business unit. At no time did the Technical Center engage in the degree of production activities associated with a fuel cycle facility.

The Kerr-McGee Corporation's NRC License SUB–986 is managed by Kerr-McGee Chemical, LLC, which operates the Technical Center to conduct research and development activities in support of its chemical facilities. In January 1999, the licensee determined it would no longer require source materials use authorizations, provided by NRC License SUB–986, to support any work. Additionally, the licensee had been notified by the Oklahoma Department of Transportation that the department would be expanding State Highway 74 and thus, would be expanding the existing right-of-way which may include the area where uranium calibration test pits, previously used under the license, were located.

The licensee has completed the remediation of the test pits with inspection oversight and confirmatory in-process surveys by the Region IV office of the NRC. The NRC staff conducted three inspections (ADAMS Accession Nos. ML011520263, ML023500440, ML030370529) and performed split sample analyses of the soils and surface water to assess the levels of contamination and subsequent remediation of the outdoor areas.

Identification of the Proposed Action

The proposed action is to issue a license amendment to Source Materials License SUB–986 for approval of the DP with proposed DCGLs that define the maximum amount of residual contamination in soils and building surfaces that would satisfy NRC's regulations in 10 CFR part 20, subpart E, ''Radiological Criteria for License Termination.'' Additional consideration for license termination of Source Materials License SUB–986 for unrestricted release of the site, is contingent on NRC staff's approval of the licensee's submittal of the final status survey report, as required by the DP.

Purpose and Need for the Proposed Action

The purpose of the proposed action is to terminate Source Materials License SUB–986 and release the site for unrestricted use in accordance with the radiological criteria for license termination in subpart E, 10 CFR part 20, ''Radiological Criteria for License Termination.'' The NRC is fulfilling its responsibility under the Atomic Energy Act to make a decision for the proposed license termination that ensures protection of the public health and safety and the environment.

Alternatives to the Proposed Action

Final approval for release of the site for unrestricted use would be contingent upon NRC staff's approval of the licensee's final status survey report. The no-action alternative would be to keep the facility on the license. Maintaining the areas under a license would provide, negligible, if any, environmental benefit, but would reduce options for future use of the property. Furthermore, this no-action alternative is not acceptable because it would conflict with NRC's requirement in 10 CFR 40.42, ''Expiration and termination of licenses and decommissioning of sites and separate building or outdoor areas,'' of timely remediation at facilities or outdoor areas that have ceased NRC licensed operations. Therefore, the no-action alternative is not considered to be reasonable and is not analyzed further in this EA.

The Affected Environment and Environmental Impacts

The facility consists of approximately 160 acres of land in which the facility buildings are located on approximately 10 acres of land with the rest of the land area consisting of grass fields or water, and not used for the facility's activities. Since the site would be surveyed and meet the NRC criteria for unrestricted use in accordance with 10 CFR part 20, the environmental impacts resulting from the release of this site for unrestricted use are expected to be insignificant. There are no additional activities which would result in cumulative impacts to the environment.

Agencies and Persons Contacted

The NRC staff has prepared this EA with input from the Oklahoma Natural Heritage Inventory by letter dated April 12, 2002, and the U.S. Fish and Wildlife Service by letter dated May 9, 2002, and documented that the proposed action will have no effect on listed species, wetlands or other important wildlife resources. By letter dated May 2, 2002, after reviewing the documentation concerning the referenced project in Oklahoma County, the Oklahoma Historical Society determined that there are no historic properties affected by the referenced project. In its letter dated April 11, 2002, the Oklahoma Archaeological Survey indicated that the referenced project has been reviewed and cross-checked with the state site files containing approximately 17,500 archaeological sites that are currently recorded in the State of Oklahoma and no sites are listed as occurring within the project area. Additionally, the Oklahoma

Archaeological Survey indicated that based on the topographic and hydrological setting, no archaeological materials are likely to be encountered. A draft of this EA was provided to the State of Oklahoma for review. The State of Oklahoma is in agreement with the proposed action and had no additional comments.

References

NRC, ''Radiological Criteria for License Termination,'' 10 CFR part 20, subpart E, 62 FR 39088, July 28, 1997.

NRC, ''NMSS Decommissioning Standard Review Plan, ''NUREG–1727, August 1991.

NRC, ''Multi-Agency Radiation Survey and Site Investigation Manual (MARSSIM),'' NUREG–1575, December 1997.

NRC, ''Consolidated NMSS Decommissioning Guidance,'' NUREG–1757, Volume 1, September 2002.

NRC, Draft, ''Environmental Review Guidance for Licensing Actions Associated with NMSS Programs,'' NUREG–1748, September 2001.

NRC, Draft, ''Manual for Conducting Radiological Survey in Support of License Termination,'' NUREG/CR–5849, June 1992.

NRC, NMSS Decommissioning Standard Review Plan,'' NUREG–1727, September 2000.

FR 1997, Radiological Criteria for License Termination, IV. Summary of Public Comments, Responses to Comments, and Changes from Proposed Rule, A.2.2.1, page 39061, **Federal Register**, Vol 62, Rules and Regulations, July 21, 1997.

FR 2001, Rules and Regulations, pages 55752–55753, **Federal Register**, Vol 66, No. 213, November 2, 2001.

Kerr-McGee Technical Center, ''Revised Decommissioning Plan,'' April 5, 2001 (ADAMS Accession Nos. ML011840119 and ML011840269).

Kerr-McGee Technical Center, ''Responses to NRC Region IV Request for Information to Support the Environmental Assessment of Proposed Remediation Activities,'' April 22, 2002 (ADAMS Accession No. ML021140360).

III. Finding of No Significant Impact

Based upon the environmental assessment, the staff concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly the staff has determined that the preparation of an environmental impact statement is not warranted.

IV. Further Information

These references listed above may be examined and/or copied for a fee at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The references and inspection reports with ADAMS accession numbers may also be viewed in the NRC's Electronic Public Document Reading Room at *http://www.nrc.gov/reading-rm/adams.html.* Any questions with respect to this action should be referred to D. Blair Spitzberg, Ph.D., Chief, Fuel Cycle and Decommissioning Branch, Division of Nuclear Materials Safety, Region IV, U.S. Nuclear Regulatory Commission, 611 Ryan Plaza Drive, Suite 400, Arlington, Texas, 76011–4005. Telephone: (817) 860–8191, FAX number (817) 860–8188.

Dated at Arlington, Texas, this 5th day of June 2003.

For the Nuclear Regulatory Commission.

D. Blair Spitzberg,

Chief, Fuel Cycle Decommissioning Branch, Division of Nuclear Materials Safety, Region IV.

[FR Doc. 03–14858 Filed 6–11–03; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Form F–3, OMB Control No. 3235–0256, SEC File No. 270–251

Form F–7, OMB Control No. 3235–0383, SEC File No. 270–331

Form F–8, OMB Control No. 3235–0378, SEC File No. 270–332

Schedule 14D–1F, OMB Control No. 3235–0376, SEC File No. 270–338

Schedule 14D–9F, OMB Control No. 3235–0382, SEC File No. 270–339

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission (''Commission'') is soliciting comments on the collections of information summarized below. The Commission plans to submit these existing collections of information to the Office of Management Budget for extension and approval.

Form F–3 is used by foreign issuers to register securities pursuant to the Securities Act of 1933. The information collected is intended to ensure that the information required to be filed by the Commission permits verification of compliance with securities law requirements and assures the public availability of such information. Form F–3 takes approximately 166 hours per response and is filed by approximately 120 respondents for a total burden of 19,920 hours. It is estimated that 25% of the total burden hours (4,980 reporting burden hours) is prepared by the issuer.

Form F–7 may be used to register under the Securities Act securities offered for cash upon exercise of rights that are granted to its existing shareholders of the registrant to purchase or subscribe such securities. The information collected is intended to ensure that the information required to be filed by the Commission permits verification of compliance with securities law requirements and assures the public availability of such information. Approximately 5 respondents file Form F–7 and it takes approximately 4 hours per response for a total burden of 20 hours. It is estimated that 25% of the total burden hours (5 reporting burden hours) is prepared by the company.

Form F–8 may be used to register under the Securities Act securities of certain Canadian issuers to be used in exchange offers or business combinations. The information collected is intended to ensure that the information required to be filed by the Commission permits verification of compliance with securities law requirements and assures the public availability of such information. Approximately 10 respondents file Form F–8 and it takes approximately 1 hour per response for a total burden of 10 hours. It is estimated that 25% of the total burden hours (2.5 reporting burden hours) is prepared by the company.

Schedule 14D–1F may be used by any person making a cash tender or exchange offer (the ''bidder'') for securities of any issuer incorporated or organized under the laws of Canada or any Canadian province or territory that is a foreign private issuer, where less than 40% of the outstanding class of such issuer's securities that is the subject of the offer is held by U.S. holders. Schedule 14D–1F is designed to facilitate cross-border transactions in securities of Canadian issuers. The information required to be filed with the Commission is intended to permit verification of compliance with the securities law requirements and assures the public availability of such information. Approximately 5 respondents file Schedule 14D–1F and

it takes approximately 2 hours per response for total burden of 10 hours.

Schedule 14D–9F is used by any issuer incorporated or organized under the laws of Canada or any Canadian province or territory that is foreign private issuer (the ''subject company''), or by any director or officer of such issuer, where the issuer's is the subject of a cash tender or exchange offer for a class of securities filed on Schedule 14D–1F. The information required to be filed with the Commission is intended to permit verification of compliance with the securities law requirements and assures the public availability of such information. Approximately 5 respondents file Schedule 14D–9F and it takes approximately 2 hours per response for total burden of 10 hours.

Written comments are invited on: (a) Whether these proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Kenneth A. Fogash, Acting Associate Executive Director/CIO, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

Dated: June 2, 2003.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–14828 Filed 6–11–03; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47991; File No. SR–CBOE–2001–60]

Self-Regulatory Organizations; Order Approving Proposed Rule Change and Amendments No. 1, 2, 3, 4, 5, 6, 7, and 8 by the Chicago Board Options Exchange, Inc. To Initiate a Pilot Program That Allows the Listing of Strike Prices at One-Point Intervals for Certain Stocks Trading Under $20

June 5, 2003.

I. Introduction

On December 12, 2001, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to initiate a one-year pilot program that will allow the Exchange to list options on selected stocks trading below $20 at one-point intervals (''$1 Strike Pilot Program'' or ''Pilot Program''). The Exchange filed Amendments No. 1, 2, 3, 4, 5, 6, 7, and 8 to the proposed rule change on March 13, 2002,[3] June 21, 2002,[4] December 6, 2002,[5] March 7, 2003,[6] March 25, 2003,[7] April 16, 2003,[8] April 24, 2003,[9] and April 25, 2003,[10] respectively. The proposed rule change, as amended, was published for comment in the **Federal Register** on May 5, 2003.[11] The Commission received one comment letter on the proposed rule change.[12] This order approves the proposed rule change, as amended, through June 5, 2004.

II. Description of the Proposal

CBOE proposes to amend CBOE Rule 5.5, Interpretation and Policy .01 to implement the $1 Strike Pilot Program. The Pilot Program will operate for a one-year period beginning June 5, 2003, and ending on June 5, 2004. The Pilot Program will allow CBOE to list options on selected stocks trading below $20 at one-point intervals, provided that the strike prices are $20 or less, but not less than $3. For an option to be eligible for inclusion in the Pilot Program, the underlying stock must close below $20 in its primary market on the previous business day. CBOE may select up to five individual stocks to be included in its Pilot Program. In addition, CBOE may list $1 strike prices in any equity option included in the $1 strike pilot program of any other options exchange. CBOE will only list $1 strike prices that fall within a $5 range of the underlying stock price. CBOE will not list long-term options series (''LEAPS'') at $1 strike price intervals, nor will CBOE list $1 strike prices at levels that ''bracket'' existing $2.50 intervals (*e.g.*, $7 and $8 strikes around a $7.50 strike). As the $2.50 intervals are phased-out, the Exchange will introduce the $1 prices that bracket the phased-out prices.

CBOE Rule 5.5, Interpretation and Policy .03 will govern the addition of expiration months for $1 strike series. Upon expiration of the near-term month, CBOE may list an additional expiration month provided that the underlying stock closes below $20 on its primary market on expiration Friday. If the underlying stock closes at or above $20 on expiration Friday, CBOE will not list an additional month for a $1 strike series until the stock again closes below $20.

At any time, CBOE may cease listing $1 strike prices on existing series by submitting a cessation notice to the Options Clearing Corporation (''OCC''). As discussed above, if the underlying stock closes at or above $20 on expiration Friday, CBOE will not list any additional months with $1 strike prices until the stock subsequently closes below $20. If the underlying stock does not subsequently close below $20, thereby precluding the listing of

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Steve Youhn, Attorney, CBOE, to Deborah Flynn, Assistant Director, Division of Market Regulation (''Division''), Commission, dated March 12, 2002 (''Amendment No. 1'').

[4] *See* letter from James M. Flynn, Attorney II, Legal Division, CBOE, to Elizabeth King, Associate Director, Division, Commission, dated June 20, 2002 (''Amendment No. 2'').

[5] *See* letter from Steve Youhn, Attorney, Legal Division, CBOE, to Deborah Flynn, Assistant Director, Division, Commission, dated December 5, 2002 (''Amendment No. 3'').

[6] *See* letter from James M. Flynn, Attorney II, Legal Division, CBOE, to Deborah Flynn, Assistant Director, Division, Commission, dated March 6, 2003 (''Amendment No. 4'').

[7] On March 25, 2003, the Exchange filed Amendment No. 5, which supercedes the original filing and Amendments No. 1, 2, 3, and 4 in their entirety.

[8] *See* letter from James M. Flynn, Attorney II, Legal Division, CBOE, to Deborah Flynn, Assistant Director, Division, Commission, dated April 15, 2003 (''Amendment No. 6'').

[9] *See* letter from James M. Flynn, Attorney II, Legal Division, CBOE, to Deborah Flynn, Assistant Director, Division, Commission, dated April 22, 2003 (''Amendment No. 7'').

[10] *See* letter from James M. Flynn, Attorney II, Legal Division, CBOE, to Deborah Flynn, Assistant Director, Division, Commission, dated April 25, 2003 (''Amendment No. 8'').

[11] *See* Securities Exchange Act Release No. 47753 (April 29, 2003), 68 FR 23784.

[12] *See* letter from Steven Dillinger, Cornerstone Partners, LP, to Margaret H. McFarland, Deputy Secretary, Commission, dated May 26, 2003 (''Cornerstone Letter'').

additional strike prices and months, the existing $1 series will eventually expire. When the near-term month is the only series available for trading, the Exchange may submit a cessation notice to OCC. Upon submission of the notice, the underlying stock will no longer count towards the five stocks that CBOE may select for its Pilot Program. Once the Exchange submits the cessation notice, it will not list any additional month for trading with strikes below $20 unless the underlying again closes below $20, and then, only if the CBOE has not already selected a replacement stock.

According to CBOE, the Options Price Reporting Authority (''OPRA'') has the capacity to accommodate the increase in the number of series that would be added pursuant to the Pilot Program. In addition, CBOE notes that it listed approximately 109,000 series in December 2000 and approximately 100,000 series in September 2001. The CBOE believes that the increase in the number of series resulting from the Pilot Program will be substantially lower than the 9,000 series decrease the CBOE experienced.

III. Summary of Comments

The Commission received one comment letter on the proposed rule change, which supports the proposal.[13] Specifically, the commenter believes that the CBOE's proposal would provide equity investors with the flexibility necessary to hedge their risk as efficiently as possible.

IV. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[14] In particular, the Commission believes that the proposed rule change is consistent with section 6(b)(5) of the Act,[15] which requires, among other things, that the rules of a national securities exchange be designed to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Specifically, the Commission believes that the proposed listing of one point strike price intervals in selected equity options on a pilot basis should provide investors with more flexibility in the trading of equity options overlying stocks trading at less than $20, thereby furthering the public interest by allowing investors to establish equity options positions that are better tailored to meet their investment objectives. The Commission also believes that the Exchange's limited Pilot Program strikes a reasonable balance between the Exchange's desire to accommodate market participants by offering a wide array of investment opportunities and the need to avoid unnecessary proliferation of options series. The Commission expects the Exchange to monitor the applicable equity options activity closely to detect any proliferation of illiquid options series resulting from the narrower strike price intervals and to act promptly to remedy this situation should it occur. In addition, the Commission requests that CBOE monitor the trading volume associated with the additional options series listed as a result of the Pilot Program and the effect of these additional series on market fragmentation and on the capacity of the Exchange's, OPRA's, and vendors' automated systems.

As noted above, the Commission is approving the CBOE's proposal on a one-year pilot basis. In the event that CBOE proposes to extend the Pilot Program beyond June 5, 2004, expand the number of options eligible for inclusion in the Pilot Program, or seek permanent approval of the Pilot Program, it should submit a Pilot Program report to the Commission along with the filing of such proposal.[16] The report must cover the entire time the Pilot Program was in effect, and must include: (1) Data and written analysis on the open interest and trading volume for options (at all strike price intervals) selected for the Pilot Program; (2) delisted options series (for all strike price intervals) for all options selected for the Pilot Program; (3) an assessment of the appropriateness of $1 strike price intervals for the options the CBOE selected for the Pilot Program; (4) an assessment of the impact of the Pilot Program on the capacity of the CBOE's, OPRA's, and vendors' automated systems; (5) any capacity problems or other problems that arose during the operation of the Pilot Program and how the CBOE addressed them; (6) any complaints that the CBOE received during the operation of the Pilot Program and how the CBOE addressed them; and (7) any additional information that would help to assess the operation of the Pilot Program.

V. Conclusion

For the foregoing reasons, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[17] that the proposed rule change (SR–CBOE–2001–60) is approved, on a pilot basis, through June 5, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[18]

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 03–14829 Filed 6–11–03; 8:45 am]

BILLING CODE 8010–01–P

[13] *See* Cornerstone Letter, *supra* note 12.

[14] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[15] 15 U.S.C. 78f(b)(5).

[16] The Commission expects the CBOE to submit a proposed rule change at least 60 days before the expiration of the Pilot Program in the event the CBOE wishes to extend, expand, or seek permanent approval of the Pilot Program.

[17] 15 U.S.C. 78s(b)(2).

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47998; File No. SR–GSCC–00–12]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Order Granting Approval of a Proposed Rule Change Relating to Insolvency and Clearing Fund Requirements

June 6, 2003.

I. Introduction

On October 5, 2000, Government Securities Clearing Corporation (''GSCC'') [1] filed with the Securities and Exchange Commission (''Commission'') proposed rule change File No. SR–GSCC–00–12 pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [2] and on December 14, 2000, amended the proposed rule change. Notice of the proposal was published in the **Federal Register** on June 17, 2002.[3] No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

II. Description

On January 30, 1996, the Commission issued an order approving GSCC's

[1] On January 1, 2003, MBS Clearing Corporation was merged into GSCC under New York law and GSCC was renamed the Fixed Income Clearing Corporation. Securities Exchange Act Release No. 47015 (December 17, 2002), 67 FR 78531 (December 24, 2002) (File Nos. SR–GSCC–2002–10 and MBSCC–2002–01).

[2] 15 U.S.C. 78s(b)(1).

[3] Securities Exchange Act Release No. 46053 (June 10, 2002), 67 FR 41285.

proposed rule change permitting foreign entities to become members of GSCC's netting system.[4] The rule change established application and continuing membership requirements for foreign entities, including the delivery to GSCC of an opinion of foreign counsel addressing the particular jurisdictional concerns raised by the admission of a foreign entity to netting system membership.[5]

Having gained experience from reviewing the legal opinions regarding foreign law that were provided in connection with the applications of the foreign banks that GSCC has admitted to its netting system to date, GSCC has determined to clarify its insolvency rule, rule 22, in the manner described in subsection (i) below so that the insolvency rule more appropriately references the types of insolvency proceedings to which a foreign member might become subject. GSCC will also make conforming language changes to GSCC's rules dealing with applications for membership standards as they apply to foreign members.

Some of the legal opinions referred to in the previous paragraph have indicated that GSCC would be exposed to ''legal risk'' as a result of the application of the particular jurisdiction's law to a foreign member's insolvency or bankruptcy. The legal risk can take the form of prohibiting or delaying GSCC from: Accessing some or all of the clearing fund deposit of the member; performing its netting, close-out, or liquidation of transactions; or setting off obligations as set forth in its clearing fund rule (rule 4), its ceasing to act rule (rule 21), or its insolvency rule (rule 22) or taking any other action contemplated by these rules. GSCC is amending its rules to better protect itself and its members from these types of legal risk in the circumstances where GSCC reasonably determines based upon factors such as outside legal advice or discussions with a relevant regulator that such legal risk exists. The proposed rule changes are described more fully in subsection (ii) below.

GSCC's experience in connection with the admission of U.S. branches of foreign banks has also indicated that certain issues that are described in these opinions could affect GSCC's rights in the event of the insolvency or bankruptcy of a domestic member. GSCC believes, given the importance of its being able to exercise its rights as set forth in its clearing fund rule, its ceasing to act rule, and its insolvency rule that the proposed rule changes discussed below in subsection (ii) should also apply to domestic members that present GSCC with legal risk. GSCC would reasonably determine that such legal risk exists based upon factors such as outside legal advice or discussions with a relevant regulator.

GSCC is also adding language to its clearing fund rule clarifying its right to rehypothecate the cash deposits of its clearing fund.

(i) Changes to Insolvency Rule

GSCC's insolvency rule contains a section that lists the various types of events or proceedings that would permit GSCC to treat a member as insolvent. The rule was written utilizing terms common in United States insolvency or bankruptcy proceedings. GSCC is amending its insolvency rule to add language so that the rule more appropriately references the types of insolvency proceedings to which a foreign member might become subject.

GSCC's foreign membership agreements have already been expanded to incorporate the insolvency triggering events that GSCC is now making part of its rules. The changes will bring the rules into conformity with the foreign membership agreements and specifically give GSCC the right pursuant to its rules to declare a foreign member to be insolvent under the requisite circumstances.[6]

(ii) Clearing Fund Requirements

One of GSCC's most important risk management tools is its clearing fund, which is comprised of cash, certain netting-eligible securities, and eligible letters of credit. The purposes served by the clearing fund are: (1) To have on deposit from each netting member assets sufficient to satisfy any losses that may be incurred by GSCC as the result of the default by the member and the resultant close-out of that member's settlement positions; (2) to maintain a total asset amount sufficient to satisfy potential losses to GSCC and its members resulting from the failure of more than one member (and the failure of such members' counterparties to pay their pro rata allocation of loss); and (3) to ensure that GSCC has sufficient liquidity at all times to meet its payment and delivery obligations.

A member's clearing fund deposit, to serve its intended purpose, should be immediately accessible by GSCC in the event of the member's bankruptcy or insolvency. However, the application of certain domestic or foreign laws could delay or prevent GSCC from accessing the portion of the member's clearing fund deposit that is in the form of cash and securities. The portion of the member's clearing fund deposit that is in the form of letters of credit (''LCs'') is generally not subject to the same risk because LCs are typically not considered to be part of the bankrupt/insolvent entity's estate.

The rules with respect to the calculation of a member's clearing fund deposit do not currently address this legal risk. In order to better protect itself and its members, GSCC is amending its rules to require a domestic or foreign member that in management's reasonable view (which may be based upon factors such as outside legal advice or discussions with a relevant regulator) presents heightened legal risk to GSCC to deposit additional collateral over what would normally be required under GSCC's clearing fund rule and/or to post some additional portion of its clearing fund deposit requirement in the form of an LC.[7]

(iii) Clarification of Rehypothecation Right With Respect to Cash Deposits

GSCC's clearing fund rule contains a provision that permits GSCC to rehypothecate, transfer, or assign its clearing fund collateral in the event that GSCC needs to secure a loan or to satisfy an obligation incurred by it incident to its clearance and settlement business. GSCC is clarifying the provision with respect to the portions of the clearing funds that may be rehypothecated, transferred, or assigned by GSCC. The provision refers to the securities and the LCs that members pledge or deposit to the clearing fund as well as to the ''deposits or other instruments in which the cash deposits'' are invested. GSCC believes that this language could be read to not actually refer to the cash deposits themselves. Therefore, GSCC believes that it is prudent to specifically add a reference in the rule to ''cash deposits'' in order to eliminate any doubt as to GSCC's ability to use the cash portion of the clearing fund in the manner set forth in the clearing fund rule.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the

[4] Securities Exchange Act Release No. 36788 (January 10, 1996), 61 FR 4500 (February 6, 1996) (File No. SR–GSCC–95–05).

[5] GSCC also requires each prospective foreign member to provide a legal opinion on insolvency discussing applicable U.S. Federal and State laws.

[6] In addition, the proposed rule change makes conforming language changes to GSCC's rule 2 (Members) and rule 3 (Financial Responsibility and Operational Capability Standards) as they apply to foreign members.

[7] GSCC's clearing fund rule requires that LCs constitute no more than 70 percent of a member's clearing fund deposit. GSCC is amending its rule so that it may ask for a higher percentage in the form of an LC if circumstances warrant.

rules and regulations thereunder and particularly with the requirements of section 17A(b)(3)(F) of the Act, which requires that the rules of a clearing agency be designed to safeguard securities and funds in its custody or control or for which it is responsible.[8] The Commission finds that by having the ability to require an additional clearing fund deposit or deposits in the form of letters of credit in circumstances as described above, the proposed rule change will help to ensure that GSCC has adequate clearing fund assets available to it in the event that it must liquidate the collateral of an insolvent participant. Additionally, the change to GSCC's insolvency rule to include references to certain insolvency proceedings against foreign members will better equip GSCC to handle the financial difficulties of foreign members and should help GSCC to assure the safeguarding of securities and funds in the its custody or control or for which it is responsible. Therefore, the proposed rule change is consistent with GSCC safeguarding obligations under section 17A(b)(3)(F).

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular with the requirements of section 17A of the Act and the rules and regulations thereunder applicable.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR–GSCC–00–12) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–14831 Filed 6–11–03; 8:45 am]

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[8] 15 U.S.C. 78q–1(b)(3)(F).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47993; File No. SR–NASD–2003–81]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto by National Association of Securities Dealers, Inc. Relating to Quote Decrementation in SuperMontage

June 5, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and rule 19b–4 thereunder,[2] notice is hereby given that on May 12, 2003, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association''), through its subsidiary the Nasdaq Stock Market, Inc. (''Nasdaq''), filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in items I, II, and III below, which items have been prepared by Nasdaq. On May 29, 2003, Nasdaq filed Amendment No. 1 to the proposal.[3] The Commission is publishing this notice, as amended, to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq proposes to modify how the quotes of order-delivery Electronic Communication Networks (''ECNs'') in Nasdaq's National Market Execution System (''NNMS'' or ''SuperMontage'') will be decremented after they decline an order shipped to them, or partially fill an order sent to them, or fail to respond to the delivery within 30 seconds.[4] Under the proposal, order-delivery ECNs that decline an order, partially fill an order, or fail to respond within 30 seconds to orders sent to them (''time-out'') by SuperMontage will no longer have all of their trading interest at or better than the declined price level removed from the system. Instead, the system after a decline, partial fill, or time-out, will remove the entire amount of each individual quote(s)/order(s) to which the orders was delivered to by NNMS. The proposed rule text is as follows:

Proposed new language is *italicized*; proposed deletions are in [brackets].

4710. Participant Obligations in NNMS

(b) Non-Directed Orders

(1) General Provisions—A Quoting Market Participant in an NNMS Security, as well as NNMS Order Entry Firms, shall be subject to the following requirements for Non-Directed Orders:

(A) through (B)—No Change.

(C) Decrementation Procedures—The size of a Quote/Order displayed in the Nasdaq Order Display Facility and/or the Nasdaq Quotation Montage will be decremented upon the delivery of a Liability Order or the delivery of an execution of a Non-Directed Order or Preferenced Order in an amount equal to the system-delivered order or execution.

(i) If an NNMS Auto-Ex ECN has its bid or offer Attributable Quote/Order and Reserve Size decremented to zero without transmission of another Attributable Quote/Order to Nasdaq, the system will zero out the side of the quote that is exhausted. If both the bid and offer are decremented to zero without transmission of a revised Attributable Quote/Order, the ECN will be placed into an excused withdrawal state until the ECN transmits to Nasdaq a revised Attributable Quote/Order.

(ii) If an NNMS Order-Delivery ECN declines or partially fills a Non-Directed Order without immediately transmitting to Nasdaq a revised Attributable Quote/Order that is at a price inferior to the previous price, or if an NNMS Order-Delivery ECN fails to respond in any manner within 30 seconds of order delivery, the system will cancel the delivered order and send the order (or remaining portion thereof) back into the system for immediate delivery to the next [Quoting Market Participant] *eligible Quote/Order* in queue. The system then will zero out [the] *those* ECN['s] Quote/Orders *to which the Non-Directed Order was delivered.* [at that price level on that side of the market,] *If there are no other Quote/Orders at the declined price level*, [and] the ECN's quote on that side of the market will remain at zero until the ECN transmits to Nasdaq a revised Attributable Quote/Order. If both the bid and offer are zeroed out, the ECN will be placed into an excused withdrawal state until the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Mary M. Dunbar, Vice President and Deputy General Counsel, Nasdaq, to Katherine A. England, Assistant Director, Division of Market Regulation (''Division''), Commission, dated May 29, 2003 (''Amendment No. 1''). In Amendment No. 1, Nasdaq replaced the proposed rule change in its entirety.

[4] Nasdaq's original target date for implementation of this proposal, if approved by the Commission, was June 16, 2003. Nasdaq has revised its intended implementation time-frame for mid-July 2003, and will notify the Commission and market participants when a firm date has been set. Telephone conversation between Thomas Moran, Associate General Counsel, Nasdaq, and Marc McKayle, Special Counsel, Division, Commission on June 5, 2003.

ECN transmits to Nasdaq a revised Attributable Quote/Order.

(iii) If an NNMS ECN's Quote/Order has been zeroed out or if the ECN has been placed into excused withdrawal as described in subparagraphs (b)(1)(C)(i) and (ii) of this rule, the system will continue to access the ECN's Non-Attributable Quotes/Orders that are in the NNMS, as described in rule 4707 and subparagraph (b) of this rule.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in item IV below. Nasdaq has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Currently, the rules of the SuperMontage provide that if an NNMS Order Delivery ECN declines,[5] partially fills, or fails to respond within 30 seconds to a non-directed order delivered to it by the system, without immediately transmitting a revised Attributable Quote/Order at an inferior price, NNMS will zero out all the Quotes/Orders of that ECN on the same side of the market at the price level of the declined order or better.[6] This processing was incorporated into SuperMontage to ameliorate locked or crossed markets[7] that had previously occurred in Nasdaq when ECNs declined to trade with other market participants, usually based on a dispute over the imposition, or the amount, of an ECN's quote-access fee. The following example illustrates how the quote/order reduction process currently operates for an ECN alone at the inside that elected to enter three separate bid quotes/orders at the same price level in SuperMontage:

ECN Quote (#1)—1000 shares @ 20.00
ECN Order (#2)—500 shares @ 20.00
ECN Order (#3)—300 shares @ 20.00
The inside aggregated bid shows 1800 shares @ 20.00.

1. SuperMontage receives an 800 share market sell order.

2. In response, SuperMontage sends an 800 share order to ECN Quote (#1). Upon dispatch, SuperMontage decrements ECN Quote (#1) by the amount of the delivery (800 shares) leaving a display quote of 1000 shares (including 200 shares in ECN Quote (#1)) that remains available for execution.

3. The ECN declines to execute the 800 share order delivered to ECN Quote (#1), and does not immediately transmit a revised Attributable Quote/Order at an inferior price.

4. If not yet executed against by a subsequent incoming order, the ECN's decline results in the removal of ECN Quote (#1) (*i.e.*, the 800 shares originally decremented and the 200 share remainder of ECN Quote (#1)), and Orders (#2) and (#3) from the system.

5. The inside moves to the next best bid less than 20.00 and the system reallocates the 800 shares from the incoming order received in Step 1.

In response to concerns raised by some NNMS Order Delivery ECNs that the above quote decrementation method disadvantages Quotes/Orders entered by them that would otherwise be executed but for the elimination of all the ECN's trading interest on the same side of the market at the declined price level,[8] Nasdaq has determined to modify the SuperMontage quote/order reduction process. Under the new approach to ECN quote/order decrementation after a decline, partial-fill, or time-out, will no longer result in an ECN's entire trading interest at the declined price level or better being removed from the system. Instead, SuperMontage will only remove the total amount of each individual quote(s)/order(s) to which the orders were delivered by SuperMontage. That is, SuperMontage will remove in their entirety only those Quotes/Orders with which the system attempts to trade with an order delivery ECN, but fails to do because of a decline, partial fill, or time-out. The following example illustrates how the new quote/order reduction process would operate for an ECN alone at the inside that elected to enter three separate bid quotes/orders at the same price level in SuperMontage:

ECN Quote (#1)—1000 shares @ 20.00
ECN Order (#2)—500 shares @ 20.00
ECN Order (#3) 300 shares @ 20.00
The inside aggregated bid shows 1800 shares @ 20.00.

1. SuperMontage receives an 800 share market sell order.

2. In response, SuperMontage sends an 800 share delivery to ECN Quote (#1). Upon dispatch, SuperMontage decrements ECN Quote (#1) by the amount of the delivery (800 shares) leaving a display quote of 1000 shares in ECN Quote (#1) that remains available for execution.

3. The ECN declines to execute the 800 share delivery to ECN Quote (#1).

4. If not executed against by a subsequent incoming order, the ECN's decline results only in the removal of ECN Quote (#1), *i.e.*, the 800 shares originally decremented and the 200 share remainder of ECN Quote (#1). Orders (#2) and (#3) remain in the system and continue to be eligible for execution.

5. The system reallocates the 800 shares from the incoming order in Step 1 against ECN orders (#2) and (#3) before moving, if necessary, to the next best bid.

In short, only individual Quotes/Orders are removed in full by a decline, partial-fill, or a time-out where no revised Attributable Quote/Order is immediately transmitted at an inferior price; not all trading interest at the declined price level or better. Other ECN Quotes/Orders at a particular price level that are not part of a SuperMontage delivery resulting in a decline or a time-out are retained in the system and remain available for execution and are not traded through. Nasdaq notes that nothing in this new processing of Order Delivery ECN Quotes/Orders after declines, partial-fills, or time-outs allows the creation of a locked or crossed market during the trading day in SuperMontage. As such, Nasdaq believes that the above approach draws an appropriate balance between its need to ensure the smooth operation of its market and the desire of NNMS Order Delivery ECNs to maximize the potential for execution for Quotes/Orders they submit to NNMS.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the

[5] An ECN's decline to a delivered order must be the result of an access fee-dispute, or otherwise be permitted under the SEC Firm Quote rule. NASD Regulation surveils for violations of the Firm Quote rule.

[6] Nasdaq notes that it recently filed a proposed rule change to reduce the maximum 30-second response time to a 7 second response time. *See* Securities Exchange Act Release No. 34–47883 (May 16, 2003), 68 FR 28312 (May 23, 2003) (Notice of File No. NASD–2003–72).

[7] *See* Securities Exchange Act Release No. 34–43863 (January 19, 2001), 66 FR 8020 (January 26, 2001).

[8] For example, Nasdaq notes the concern that the removal of all the ECN's trading interest at the declined price level may prevent other Quotes/Orders that did not specifically decline a delivery from SuperMontage from potentially executing with market participants that have arrangements with the ECN to pay an access fee.

provisions of section 15A of the Act,[9] in general and with section 15A(b)(6) of the Act,[10] in particular, in that the proposal is designed to promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–2003–81 and should be submitted by July 3, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 03–14830 Filed 6–11–03; 8:45 am]

BILLING CODE 8010–01–P

[9] 15 U.S.C. 78*o*–3.

[10] 15 U.S.C. 78o–3(6).

[11] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[License No. 02/72–0623]

Zon Capital Partners, L.P.; Notice Seeking Exemption Under Section 312 of the Small Business Investment Act, Conflicts of Interest

Notice is hereby given that Zon Capital Partners, L.P. (''Zon''), 5 Vaughn Drive, Suite 104, Princeton, New Jersey 08540, a Federal Licensee under the Small Business Investment Act of 1958, as amended (''the Act''), in connection with the proposed financing of a small concern is seeking an exemption under section 312 of the Act and § 107.730, Financings which Constitute Conflicts of Interest of the Small Business Administration (''SBA'') Rules and Regulations (13 CFR 107.730 (2002)). Zon proposes to provide equity financing to HR Technologies, 2700 Westchester Avenue, Purchase, New York 10577. The financing is contemplated for funding growth and acquisitions.

The financing is brought within the purview of § 107.730(a)(1) of the Regulations because Early Stage Enterprises L.P., an Associate of Zon, owns greater than 10 percent of HRT and therefore HRT is considered an Associate of Zon as defined in § 107.50 of the Regulations.

Notice is hereby given that any interested person may, not later than fifteen (15) days from the date of publication of this notice, submit written comments on the proposed transaction to the Associate Administrator for Investment, U.S. Small Business Administration, 409 Third Street, SW., Washington, DC 20416.

A copy of this notice shall be published, in accordance with § 107.730 (g), in the **Federal Register** by SBA.

Dated: June 6, 2003.

Jeffrey D. Pierson,

Associate Administrator for Investment.

[FR Doc. 03–14854 Filed 6–11–03; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3496, Amdt. 3]

State of Kansas

In accordance with notices received from the Department of Homeland Security—Federal Emergency Management Agency, effective May 30 and June 2, 2003, the above numbered declaration is hereby amended to establish the incident period for this disaster as beginning on May 4, 2003, and continuing through May 30, 2003. This declaration is also amended to include Allen County in the State of Kansas as a disaster area due to damages caused by severe storms, tornadoes and flooding occurring on May 4, 2003, and continuing through May 30, 2003.

All other counties contiguous to the above named primary county have been previously declared.

All other information remains the same, *i.e.*, the deadline for filing applications for physical damage is July 7, 2003, and for economic injury the deadline is February 6, 2004.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: June 4, 2003.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 03–14853 Filed 6–11–03; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3508]

Commonwealth of Kentucky

As a result of the President's major disaster declaration on June 3, 2003, I find that Anderson, Boyd, Breckinridge, Boyle, Bullitt, Caldwell, Carter, Crittenden, Elliott, Fleming, Garrard, Grayson, Greenup, Hardin, Hart, Henderson, Hopkins, Jefferson, Jessamine, Larue, Lewis, Lawrence, Mason, McLean, Meade, Mercer, Nelson, Rowan, Union, Washington, Webster and Woodford Counties in the Commonwealth of Kentucky constitute a disaster area due to damages caused

by severe storms, flooding, mud and rock slides, and tornadoes occurring on May 4 through May 27, 2003. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on August 4, 2003, and for economic injury until the close of business on March 3, 2004, at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Barren, Bath, Bracken, Butler, Casey, Christian, Daviess, Edmonson, Fayette, Franklin, Green, Hancock, Johnson, Lincoln, Livingston, Lyon, Madison, Marion, Martin, Menifee, Metcalfe, Morgan, Muhlenberg, Nicholas, Ohio, Oldham, Robertson, Rockcastle, Scott, Shelby, Spencer, Taylor and Trigg in the Commonwealth of Kentucky; Adams, Brown, Lawrence and Scioto counties in the State of Ohio; Gallatin and Hardin counties in the State of Illinois; Clark, Crawford, Floyd, Harrison, Perry, Posey, Spencer, Vanderburgh and Warrick counties in the State of Indiana; and Wayne county in the State of West Virginia.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	5.625
Homeowners without credit available elsewhere	2.812
Businesses with credit available elsewhere	5.906
Businesses and non-profit organizations without credit available elsewhere	2.953
Others (including non-profit organizations) with credit available elsewhere	5.500
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	2.953

The number assigned to this disaster for physical damage is 350811. For economic injury the number is 9V7500 for Kentucky; 9V7600 for Ohio; 9V7700 for Illinois; 9V7800 for Indiana; and 9V7900 for West Virginia.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: June 4, 2003.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 03–14855 Filed 6–11–03; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Advisory Committee on Veterans Business Affairs; Public Meeting

The U.S. Small Business Administration (SBA), pursuant to the Veterans Entrepreneurship and Small Business Development Act of 1999 (Pub. L. 106–50), will be hosting the second meeting of the Advisory Committee on Veterans Business Affairs. The meeting will be held at 409 3rd Street, SW., Washington, DC 20416, on Tuesday, June 24, 2003, from 9 a.m. to 5 p.m. and on Wednesday, June 25, 2003, from 9 a.m. to 12 p.m.

If you have any questions or concerns regarding the meeting, please contact Ms. Cheryl Clark in the Office of Veterans Business Development (OVBD) at (202) 619–1697.

Candace H. Stoltz,

Director of Advisory Councils, Office of Communications.

[FR Doc. 03–14852 Filed 6–11–03; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Notice of Granted Buy America Waivers

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of granted Buy America waiver.

SUMMARY: The following waivers allow New Flyer of America and the North American Bus Industries (NABI) to count a foreign-manufactured articulating joint system used in low and standard floor bus as a domestic component for purposes of calculating the aggregate domestic content of the vehicle and was predicated on the non-availability of the item in the domestic market. The New Flyer waiver was granted on April 24, 2003, and the NABI waiver on May 9, 2003. For reasons discussed in the text of the waivers, both expire on July 1, 2004. This notice shall insure that the public is aware of the waivers. FTA requests that the public notify it of any relevant changes in the domestic articulating joint market.

FOR FURTHER INFORMATION CONTACT: Meghan G. Ludtke, FTA Office of Chief Counsel, Room 9316, (202) 366–1936 (telephone) or (202) 366–3809 (fax).

SUPPLEMENTARY INFORMATION: See waivers below.

Issued: June 9, 2003.

Jennifer L. Dorn,

Administrator.

April 24, 2003.

Mr. Paul Smith,

Vice President, Sales and Marketing, New Flyer of America, 711 Kerneghan Avenue, Winnipeg, Manitoba, Canada R2C 3T4.

Mr. Smith: This letter responds to your correspondence of March 24, 2003, in which New Flyer of America (New Flyer) requests a non-availability waiver of the Buy America requirements for the procurement of the Hubner Manufacturing Corporation (Hubner) articulated joint system for New Flyer's low floor buses.

The Federal Transit Administration's (FTA) requirements concerning domestic preference for federally funded transit projects are set forth in 49 U.S.C. 5323(j). Section 5323(j)(2)(C) addresses the general requirements for the procurement of rolling stock. This section provides that all rolling stock procured with FTA funds must have a domestic content of at least 60 percent and must undergo final assembly in the U.S. You request a waiver under 49 U.S.C. 5323(j)(2)(B), which states the Buy America requirements shall not apply if the item or items are not produced in the U.S. in sufficient and reasonably available quantities or are not of a satisfactory quality. The implementing regulation provides that non-availability waivers may be granted for a component of rolling stock. 49 CFR 661.7(f).

FTA post a summary of this waiver request on its website and requested comment. We received four comments, one against and three in favor of granting the waiver.[1] The comment against the waiver argues that the Buy America rules for rolling stock already allow a waiver of up to forty percent foreign content, and when a component is unavailable from a domestic source, the vehicle maker should use part of its allotted foreign content. However, as noted above, the regulation currently allows component waivers for rolling stock when the product is not available from a domestic source. FTA received no comments indicating that these articulating joint systems are available from a U.S. source.

Based on a thorough review of the industry, FTA previously granted a two-year non-availability waiver to Newflyer for this articulated joint system on April 24, 2001. You state that the circumstances necessitating the current waiver remain unchanged and in the near term, New Flyer must still use the Hubner joint, which is still not available from a domestic source.

In response to the original waiver, FTA received a comment from a U.S. bellows

[1] The comment against the waiver was from Gillig Corporation. The comments in favor of the waiver were from CAPtech, Inc., North American Bus Industries, and Hubner Manufacturing.

manufacturer, A&A Manufacturing, expressing concern that because the articulated joint system is made of separate subcomponents that could be supplied separately by different manufacturers, the waiver effectively prevented A&A from selling its product, the bellows, to New Flyer's response stated that in the low floor bus, the articulated joints are purchased as an entire unit and any changes or integration of a subcomponent, such as new bellows, would require sufficient time to design, integrate and test.

On January 17, 2001, FTA directed Newflyer to work with domestic suppliers for these parts to develop alternative sources. We noted that this good faith effort to qualify new domestic suppliers would be considered should New Flyer request a renewal of the waiver. Newflyer now informs FTA that it plans to install an articulated joint, utilizing A&A's bellows and manufactured by a domestic manufacturer, in August 2003. The requisite testing should be completed by April 2004. FTA has also been advised by Hubner Manufacturing, that it plans to relocate the entire articulation systems manufacturing process from Germany to South Carolina by the end of 2003.

Based on the information you have provided, I have determined that the grounds for a non-availability waiver still exist. Therefore, pursuant to the provisions of 49 U.S.C. 5323(j)(2)(B), a waiver is granted for the procurement of Hubner's articulated joint system for New Flyer low floor buses until June 30, 2004, as requested. The waiver will allow time for Hubner's relocation to the U.S. and completion of necessary testing for the alternate U.S. joint system. In order to insure that the public is aware of this waiver, particularly potential manufacturers, this waiver will be published in the **Federal Register**.

If you have any questions, please contact Meghan G. Ludtke at (202) 366–1935.

Very truly yours,

Gregory B. McBride,
Deputy Chief Counsel.
May 9, 2003.

Mr. Bill Coryell,
Vice President, Marketing and Sales, North American Bus Industries, Inc., 20350 Ventura Blvd., Suite 205, Woodland Hills, California 91364.

Dear Mr. Coryell: This letter responds to your correspondence of April 22, 2003, in which North American Bus Industries, Inc. (NABI) requests a non-availability waiver of the Buy America requirements for the procurement of the Hubner Manufacturing Corporation (Hubner) articulated joint system for use in NABI's low floor and standard floor articulated buses. The system is comprised of a mechanical articulating joint incorporating an electronically controlled, hydraulic damping subsystem.

The Federal Transit Administration's (FTA) requirements concerning domestic preference for federally funded transit projects are set forth in 49 U.S.C. 5323(j). Section 5323(j)(2)(C) addresses the general requirements for the procurement of rolling stock. This section provides that all rolling stock procured with FTA funds must have a domestic content of at least 60 percent and must undergo final assembly in the U.S. You request a waiver under 49 U.S.C. 5323(j)(2)(B), which states the Buy America requirements shall not apply if the item or items are not produced in the U.S. in sufficient and reasonably available quantities or are not of a satisfactory quality. The implementing regulation provides that non-availability waivers may be granted for a component of rolling stock. 49 CFR 661.7(f).

FTA posted a request for comments and received one comment against the waiver. Gillig Corporation argues that the Buy America rules for rolling stock already allow a waiver of up to forty percent foreign content, and when a component is unavailable from a domestic source, the vehicle maker should use part of its allotted foreign content. However, as noted above, the regulation currently allows component waivers for rolling stock when the product is not available from a domestic source. FTA received no comments indicating that these articulating joint systems are available from a U.S. source. We received two comments in favor of the waiver, one from Hubner, the subject joint manufacturer, and the other from CAPtech, Inc., which argues that allowing foreign manufacturers into the market place will result in better U.S. products.

FTA issued a similar waiver to New Flyer of America on April 24, 2001, which was valid until April 24, 2003. Based in part on the waiver issued to New Flyer in 2001, NABI requested a similar waiver on August 9, 2002. In grating NABI's waiver, we wrote ''we will grant this waiver to NABI for all solicitations responded to until April 24, 2003, which is when New Flyer's waiver expires. We will then evaluate the situation with respect to all vehicle and articulating joint manufacturers.'' New Flyer and NABI have both requested a renewal of this waiver and on April 24, 2003, FTA issued another waiver to New Flyer.

You state that the circumstances necessitating the current waiver remain unchanged and in the near term, NABI must still use the Hubner joint, which is still not available from a domestic source. FTA has been advised by Hubner Manufacturing that it plans to relocate the entire articulation systems manufacturing process from Germany to South Carolina by the end of 2003. Based on a review of the industry and the information provided by New Flyer, NABI, and Hubner, I have determined that the grounds for a non-availability waiver still exist. Therefore, pursuant to the provisions of 49 U.S.C. 5323(j)(2)(B), and consistent with the waiver issued to New Flyer on April 24, 2003, a waiver is granted for the procurement of Hubner's articulated joint system for NABI's low floor and standard buses until June 30, 2004. This waiver will allow time for Hubner's relocation to the U.S. In order to insure that the public is aware of this waiver, particularly potential manufacturers, this waiver will be published in the **Federal Register**.

If you have any questions, please contact Meghan G. Ludtke at (202) 366–1936.

Very Truly yours,

Gregory B. McBride,
Deputy Chief Counsel.

[FR Doc. 03–14888 Filed 6–11–03; 8:45 am]

BILLING CODE 4910–57–M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number: MARAD–2003–15377]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel AMMERSEE.

SUMMARY: As authorized by Pub. L. 105–383 and Pub. L. 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket 2003–15377 at *http://dms.dot.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before July 14, 2003.

ADDRESSES: Comments should refer to docket number MARAD–2003–15377. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through

Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Michael Hokana, U.S. Department of Transportation, Maritime Administration, MAR–830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–0760.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel *AMMERSEE* is:

Intended Use: ''Short cruises with campers.''

Geographic Region: ''Maine Coast.''

Dated: June 6, 2003.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 03–14834 Filed 6–11–03; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number: MARAD–2003–15378]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel BRISTOL GOOSE.

SUMMARY: As authorized by Public Law 105–383 and Public Law 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket 2003–15378 at *http://dms.dot.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Public Law 105–383 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before July 14, 2003.

ADDRESSES: Comments should refer to docket number MARAD–2003–15378. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Michael Hokana, U.S. Department of Transportation, Maritime Administration, MAR–830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–0760.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel *Bristol Goose* is:

Intended Use: ''Captained cruises from Baltimore on the Chesapeake Bay and its tributaries, lasting a week or less. Vessel will not carry more than 6 passengers at a time.''

Geographic Region: ''Chesapeake Bay and its tributaries; Maryland waters only.''

Dated: June 6, 2003.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 03–14835 Filed 6–11–03; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number: MARAD–2003–15375]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel OSCEOLA.

SUMMARY: As authorized by Pub. L. 105–383 and Pub. L. 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket 2003–15375 at *http://dms.dot.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before July 14, 2003.

ADDRESSES: Comments should refer to docket number MARAD–2003–15375. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Michael Hokana, U.S. Department of Transportation, Maritime Administration, MAR–830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–0760.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel *Osceola* is:

Intended use: ''6 pack charters.''

Geographic Region: ''Florida.''

Dated: June 6, 2003.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 03–14832 Filed 6–11–03; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number: MARAD–2003–15379]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel RAVEN.

SUMMARY: As authorized by Pub. L. 105–383 and Pub. L. 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket 2003–15379 at *http://dms.dot.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before July 14, 2003.

ADDRESSES: Comments should refer to docket number MARAD–2003–15379. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Michael Hokana, U.S. Department of Transportation, Maritime Administration, MAR–830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–0760.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel *Raven* is:

Intended Use: ''Recreational sightseeing and kayak trip support.''

Geographic Region: ''Prince William Sound and Blying Sound, Alaska.''

Dated: June 6, 2003.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 03–14836 Filed 6–11–03; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number: MARAD–2003–15376]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel VOYAGER.

SUMMARY: As authorized by Pub. L. 105–383 and Pub. L. 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket 2003–15376 at *http://dms.dot.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before July 14, 2003.

ADDRESSES: Comments should refer to docket number MARAD–2003–15376. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except Federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Michael Hokana, U.S. Department of Transportation, Maritime Administration, MAR–830 Room 7201, 400 7th St., SW., Washington, DC 20590. Telephone 202–366–0760.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel VOYAGER is:

Intended Use: ''Occasional Charter.''

Geographic Region: ''US West Coast, including Mexico and Canada.''

Dated: June 6, 2003.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 03–14833 Filed 6–11–03; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number: MARAD–2003–15374]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel VOYAGER.

SUMMARY: As authorized by Pub. L. 105–383 and Pub. L. 107–295, the Secretary of Transportation, as represented by the

Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket 2003–15374 at *http://dms.dot.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before July 14, 2003.

ADDRESSES: Comments should refer to docket number MARAD–2003–15374. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Michael Hokana, U.S. Department of Transportation, Maritime Administration, MAR–830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–0760.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel *Voyager* is:

Intended Use: ''Charter party fishing boat.''

Geographic Region: ''Waters off the coast of North Carolina.''

Dated: June 6, 2003.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 03–14837 Filed 6–11–03; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[U.S. DOT Docket Number NHTSA–2003–15324]

Reports, Forms, and Record Keeping Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Request for public comment on proposed collection of information.

SUMMARY: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed information collections, including extensions and reinstatements of previously approved collections. This document describes one collection of information for which NHTSA intends to seek OMB approval.

DATES: Comments must be received on or before August 11, 2003.

ADDRESSES: Comments must refer to the docket notice numbers cited at the beginning of this notice and be submitted to Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. Please identify the proposed collection of information for which a comment is provided, by referencing its OMB clearance number. It is requested, but not required that 2 copies of the comment be provided. The Docket Section is open on weekdays from 10 a.m. to 5 p.m.

FOR FURTHER INFORMATION CONTACT: Marvin M. Levy, Ph.D., NHTSA 400 Seventh Street, SW., Room 6240, NTI–131, Washington, DC 20590. Dr. Levy's telephone number is (202) 366–5597.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must first publish a document in the **Federal Register** providing for a 60-day comment period and otherwise consult members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulations (at 5 CFR 1320.8(d)), an agency must ask for public comment on the following:

(i) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methods and assumptions used;

(iii) How to enhance the quality, utility, and clarity of the information to be collected; and

(iv) How to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

In response to these requirements, NHTSA asks for public comment on the following proposed collection of information:

Title: National Survey of Drinking and Driving Attitudes and Behavior

OMB Clearance Number: None.

Affected Public: Under this proposed collection, a telephone interview would be administered to each of 6,000 randomly selected members of the general public age 16 and older. The respondent sample would be selected from all 50 states plus the District of Columbia. Interviews would be conducted with persons at residential phone numbers selected using random digit dialing. No more than one respondent per household would be selected, and each sample member would complete just one interview. Businesses are ineligible for the sample and would be not be interviewed.

Form Number: This collection of information uses no standard forms.

Abstract: The National Highway Traffic Safety Administration's (NHTSA) has a central role in the national effort to reduce motor-vehicle related traffic injuries and deaths. After years of steady decline, the number of alcohol-related fatalities in the U.S. reversed direction and rose to 17,448 in 2001. The agency's goal is to reduce the rate of alcohol-related crashes from 0.63 to 0.53 crashes per 100 million vehicle miles traveled by the end of 2003.

In order to plan and evaluate programs intended to reduce alcohol-impaired driving, NHTSA needs to periodically update its knowledge and understanding of the public's attitudes and behaviors with respect to drinking

and driving. NHTSA began measuring the driving age public's attitudes and behaviors regarding drinking and driving in 1991. The proposed study, to be administered in the 3rd quarter of 2003, and the seventh in this series of biennial surveys, will collect data on topics included in the first six studies. These topics include the frequency of drinking and driving; ways to prevent driving after drinking; respondents' perceptions of enforcement of drinking and driving laws, including the use of sobriety checkpoints; and crash and injury experience.

The survey will be administered by telephone to a national probability sample of the driving-age public (aged 16 years or older as of their last birthday). The interview is anticipated to average approximately 20 minutes: For non-drinkers and non-drivers the interview will average below 20 minutes; while for drinker-drivers, it will average slightly over 20 minutes. Interviewers will use a computer assisted telephone interviewing technique (CATI) for reducing survey administration time and to minimize data collection errors. A Spanish-language questionnaire and bi-lingual interviewers will be used to reduce language barriers to participation. Participation by respondents will be voluntary and all respondents' results will remain anonymous and completely confidential. Participant names are not collected during the interview and the telephone number used to reach the respondent is separated from the data record prior to its entry into the analytical database.

The findings from this proposed collection will assist NHTSA in addressing the problem of alcohol-impaired driving, and in formulating programs and recommendations to Congress. NHTSA will use the findings to help focus future programs and activities to achieve improved efficiencies and outcomes. This may involve modifying existing or developing new programs that can decrease the likelihood of drinking and driving behaviors, and to provide informational support to states, localities, and law enforcement agencies in their efforts to reduce impaired driving related traffic crashes and injuries. The requested expiration date of approval is December 31, 2005.

Estimate of the Total Annual Burden Resulting from the Collection of Information: NHTSA estimates that respondents in the sample would require an average of 20 minutes to complete the telephone interview. Thus, estimated reporting burden on the general public would be a total of 2000 hours per year for the proposed study. The respondents would not incur any reporting or record keeping cost from the information collection.

Number of Respondents: It is anticipated that the number of respondents will be 6,000 persons age 16 or older living in the United States.

Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Marilena Amoni,

Associate Administrator for Program Development and Delivery, National Highway Traffic Safety Administration.

[FR Doc. 03–14889 Filed 6–11–03; 8:45 am]

BILLING CODE 4910–59–U

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34356]

Gregory B. Cundiff, Connie Cundiff, CGX, Inc., and Ironhorse Resources, Inc.—Continuance in Control Exemption—Mississippi Tennessee Holdings, LLC and Mississippi Tennessee Railroad, LLC

Gregory B. Cundiff, Connie Cundiff, CGX, Inc. (CGX), and Ironhorse Resources, Inc. (Ironhorse) (collectively, applicants), noncarriers, have filed a verified notice of exemption to continue in control of Mississippi Tennessee Holdings, LLC (MTH) and Mississippi Tennessee Railroad, LLC (MTR), upon MTH and MTR becoming rail carriers.

The transaction was expected to be consummated on or after May 27, 2003, the effective date of the exemption (7 days after the notice was filed).

This transaction is related to the concurrently filed verified notice of exemption in STB Finance Docket No. 34355, *Mississippi Tennessee Holdings, LLC and Mississippi Tennessee Railroad, LLC—Acquisition and Operation Exemption—Rail Line of Mississippi & Tennessee Railnet, Inc., between Houston, MS, and Middleton, TN, in Chickasaw, Pontotoc, Union and Tippah Counties, MS, and Hardeman County, TN,* wherein MTH and MTR seek to acquire and operate 87.7 miles of rail line currently owned by Mississippi Tennessee Railnet, Inc.

MTH and MTR are currently owned by CGX, a noncarrier holding company, that owns three carriers: Crystal City Railroad, Inc., Lone Star Railroad, Inc., and Rio Valley Railroad, Inc. CGX also owns Ironhorse, a noncarrier holding company, that owns four carriers: Railroad Switching Service of Missouri, Texas Railroad Switching, Inc., Rio Valley Switching Company, and Southern Switching Company. CGX is owned by Mr. and Mrs. Cundiff, noncarrier individuals.

Applicants state that: (1) The railroads do not connect with each other or any railroad in their corporate family; (2) the continuance in control is not part of a series of anticipated transactions that would connect the railroads with each other or any railroad in their corporate family; and (3) the transaction does not involve a Class I carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. *See* 49 CFR 1180.2(d)(2). The purpose of the transaction is to enable MTH and MTR to improve operating efficiency.

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324–25 that involve only Class III rail carriers. Accordingly, the Board may not impose labor protective conditions here, because all of the carriers involved are Class III carriers.

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34356, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Thomas F. McFarland, 208 South LaSalle Street, Suite 1890, Chicago, IL 60604–1194.

Board decisions and notices are available on our Web site at *www.stb.dot.gov.*

Decided: June 5, 2003.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 03–14869 Filed 6–11–03; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34355]

Mississippi Tennessee Holdings, LLC and Mississippi Tennessee Railroad, LLC—Acquisition and Operation Exemption—Rail Line of Mississippi & Tennessee Railnet, Inc., Between Houston, MS, and Middleton, TN, in Chickasaw, Pontotoc, Union and Tippah Counties, MS, and Hardeman County, TN

Mississippi Tennessee Holdings, LLC (MTH) and Mississippi Tennessee Railroad, LLC (MTR), noncarriers, have jointly filed a verified notice of exemption under 49 CFR 1150.31 to acquire and operate an 87.7-mile line of the Mississippi Tennessee Railnet, Inc. (Railnet), extending between milepost GG 281.0 at Houston, in Chickasaw, Pontotoc, Union and Tippah Counties, MS, and milepost GG 368.7 at Middleton in Hardeman County, TN.[1]

MTH and MTR certify that MTR's projected annual revenues will not exceed those that would qualify it as a Class III rail carrier and that its annual revenues are not projected to exceed $5 million.[2]

The transaction was scheduled to be consummated on or after May 27, 2003 (7 days after the notice was filed).

If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34355, must be filed with the Surface Transportation Board, 1925 K Street NW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Thomas F. McFarland, 208 South LaSalle Street, Suite 1890, Chicago, IL 60604–1194.

Board decisions and notices are available on our Web site at *www.stb.dot.gov.*

Decided: June 5, 2003.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 03–14868 Filed 6–11–03; 8:45 am]

BILLING CODE 4915–00–P

[1] This proceeding is related to STB Finance Docket No. 34356, *Gregory B. Cundiff, Connie Cundiff, CGX, Inc., and Ironhorse Resources, Inc.—Continuance in Control Exemption—Mississippi Tennessee Holdings, LLC and Mississippi Tennessee Railroad, LLC,* wherein Gregory B. Cundiff, Connie Cundiff, CGX, Inc., and Ironhorse Resources, Inc., have concurrently filed a notice of exemption to continue in control of MTH and MTR upon their becoming rail carriers.

[2] MTR will be the operator of the line.

DEPARTMENT OF VETERANS AFFAIRS

VA Vocational Rehabilitation and Employment Task Force; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that a meeting of the VA Vocational Rehabilitation and Employment (VR&E) Task Force will be held on Monday, June 23, 2003, from 9 a.m. to 5 p.m., and on Tuesday, June 24, 2003, from 9 a.m. to 4 p.m., in Room 230, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC. The meeting is open to the public.

The purpose of the Task Force is to conduct an independent review of the VR&E program within the Veterans Benefits Administration (VBA). The Task Force will provide recommendations to the Secretary of Veterans Affairs on improving the Department's ability to provide comprehensive services and assistance to veterans with service-connected disabilities and employment handicaps in becoming employable, and obtaining and maintaining suitable employment. The Task Force will also assess independent living services provided by VBA.

On June 23, VBA officials will make presentations on independent living services, self-employment program, and employment placement services. There will be a panel discussion with VA Regional Office Directors on the status of VR&E programs. The Small Business Administration and VA Office of Small and Disadvantaged Business Utilization will provide comment on self-employment opportunities for disabled veterans. On June 24, presentations will be made by the United States Postal Service, AFL–CIO, National Council on Independent Living, and National Organization on Disability with a focus on employment of disabled persons. The Task Force will be briefed by VBA on the G.I. Bill. The Task Force will hear remarks from senior officials from the Department of Health and Human Services and the Department of Education on employing individuals with disabilities. The Commission on Accreditation of Rehabilitation Facilities will also provide comment.

No time will be allocated for receiving oral presentations from the public. Interested parties who wish to attend the meeting should have adequate identification for entry into the building and will be subject to a security screening process. Members of the public may submit written comments for review by the Committee to: Mr. John O'Hara, Executive Director, VA Vocational Rehabilitation and Employment Task Force, VA Office of Policy, Planning, and Preparedness (008B), 810 Vermont Avenue, NW., Washington, DC 20420. Mr. O'Hara can be reached at (202) 273–5130; fax number (202) 273–5991 and e-mail address *john.o'hara@mail.va.gov.*

Dated: June 4, 2003.

By Direction of the Secretary.

E. Philip Riggin,

Committee Management Officer.

[FR Doc. 03–14812 Filed 6–11–03; 8:45 am]

BILLING CODE 8320–01–M

Corrections

Federal Register

Vol. 68, No. 113

Thursday, June 12, 2003

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

Revision of Delegations of Authority

Correction

In rule document 03–12142 beginning on page 27431 in the issue of Tuesday, May 20, 2003 make the following corrections:

§ 2.24 [Corrected]

1. On page 27439, in the second column, in §2.24, in amendatory instruction 12.c., in the second line, ''2003'' should read ''2000''.

§ 2.93 [Corrected]

2. On page 27447, in the third column, in §2.93, in amendatory instruction 39.a., in the third line, after ''(a)(12)'' add ''(a)(16), and''.

[FR Doc. C3–12142 Filed 6–11–03; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Thursday,
June 12, 2003

Part II

Securities and Exchange Commission

Rating Agencies and the Use of Credit Ratings Under the Federal Securities Laws; Notice

SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33–8236; 34–47972; IC–26066; File No. S7–12–03]

RIN 3235–AH28

Rating Agencies and the Use of Credit Ratings Under the Federal Securities Laws

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Concept release; request for comments.

SUMMARY: As part of the Commission's review of the role of credit rating agencies in the operation of the securities markets, the Commission is seeking comment on various issues relating to credit rating agencies, including whether credit ratings should continue to be used for regulatory purposes under the Federal securities laws, and, if so, the process of determining whose credit ratings should be used, and the level of oversight to apply to such credit rating agencies.

DATES: Comments should be received on or before July 28, 2003.

ADDRESSES: To help us process and review your comments more efficiently, comments should be sent by hard copy or e-mail, but not by both methods. Comments sent by hard copy should be submitted in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Comments also may be submitted electronically at the following electronic mail address: *rule-comments@sec.gov.* All comment letters should refer to File No. S7–12–03. This file number should be included in the subject line if electronic mail is used. Comment letters will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. Electronically submitted comment letters will be posted on the Commission's Internet Web site (*http://www.sec.gov*).[1]

FOR FURTHER INFORMATION CONTACT: Michael A. Macchiaroli, Associate Director, at (202) 942–0132; Thomas K. McGowan, Assistant Director, at (202) 942–4886; Mark M. Attar, Special Counsel, at (202) 942–0766; or Mandy B. Sturmfelz, Attorney, at (202) 942–0085.

SUPPLEMENTARY INFORMATION:

[1] We do not edit personal identifying information, such as names or electronic mail addresses, from electronic submissions. You should submit only information that you wish to make publicly available.

I. Introduction [2]

Since 1975, the Commission has relied on credit ratings from market-recognized credible rating agencies for distinguishing among grades of creditworthiness in various regulations under the Federal securities laws. These credit rating agencies, known as ''nationally recognized statistical rating organizations,'' or ''NRSROs,'' are recognized as such by Commission staff through the no-action letter process. There currently are four NRSROs [3]—Moody's Investors Service, Inc.; Fitch, Inc.; Standard & Poor's, a division of the McGraw-Hill Companies, Inc.; and Dominion Bond Rating Service Limited (''DBRS'').[4] Although the Commission originated the use of the term ''NRSRO'' for a narrow purpose in its own regulations, ratings by NRSROs today are widely used as benchmarks in Federal and State legislation, rules issued by financial and other regulators, foreign regulatory schemes, and private financial contracts. The Commission's initial regulatory use of the term ''NRSRO'' was solely to provide a method for determining capital charges on different grades of debt securities under the Commission's net capital rule for broker-dealers, rule 15c3–1 under the Exchange Act (the ''Net Capital rule''). Over time, as the reliance on credit rating agency ratings increased, so too did the use of the NRSRO concept.

In recent years, the Commission and Congress have reviewed a number of issues regarding credit rating agencies and, in particular, the subject of regulatory oversight of them. In 1994, the Commission solicited public comment on the appropriate role of credit ratings in rules under the Federal securities laws, and the need to establish formal procedures for recognizing and monitoring the activities of NRSROs.[5] Comments received by the Commission led to a rule proposal in 1997 which, among other things, would have defined the term ''NRSRO'' in the Net Capital rule.[6] However, the Commission has not acted upon that rule proposal. More recently, the initiation of broad-based Commission and Congressional reviews of credit rating agencies following the collapse of Enron has resulted in the need for a fresh look at the issue.

On January 24, 2003, the Commission submitted to Congress its Report on the role and function of credit rating agencies in the operation of the securities markets in response to the Congressional directive contained in section 702 of the Sarbanes-Oxley Act of 2002 (the ''Sarbanes-Oxley Act'').[7] The Report was designed to address each of the topics identified for Commission study in section 702, including the role of credit rating agencies and their importance to the securities markets, impediments faced by credit rating agencies in performing that role, measures to improve information flow to the market from credit rating agencies, barriers to entry into the credit rating business, and conflicts of interest faced by credit rating agencies.[8] The Report also addresses certain issues regarding credit rating agencies, such as allegations of anticompetitive or unfair practices, the level of due diligence performed by credit rating agencies when taking rating actions, and the extent and manner of Commission oversight of credit rating agencies, that go beyond those specifically identified in the Sarbanes-Oxley Act.

As the Commission enters the next phase of its review, a fundamental threshold matter is the appropriate degree of regulatory oversight that should be applied to credit rating agencies. At one end of the spectrum, the Commission could cease using the NRSRO designation, exit the business of rating agency oversight, and devise alternative means to fulfill its regulatory objectives. At the other, the Commission

[2] For a detailed discussion on credit rating agencies and the Commission's use of credit ratings under the Federal securities laws, *see* the *Report on the Role and Function of Credit Rating Agencies in the Operation of the Securities Markets, As Required by Section 702(b) of the Sarbanes-Oxley Act of 2002,* U.S. Securities and Exchange Commission, January 2003 (hereinafter, the ''Report''). The Report is available on the Commission's Web site at *http://www.sec.gov/news/studies/credratingreport0103.pdf.*

[3] Since 1975, four additional rating agencies have been recognized as NRSROs. However, each of these firms has since merged with or been acquired by other NRSROs. These four additional rating agencies were Duff and Phelps, Inc., McCarthy, Crisanti & Maffei, Inc., IBCA Limited and its subsidiary, IBCA, Inc., and Thomson BankWatch, Inc.

[4] On February 24, 2003, the Commission's Division of Market Regulation (the ''Division'') responded to a request by DBRS that the Division will not recommend enforcement action against broker-dealers that consider ratings by DBRS as NRSRO ratings when computing net capital pursuant to rule 15c3–1 under the Securities Exchange Act of 1934 (''Exchange Act''). *See* letter from Annette L. Nazareth, Director, Division, Commission, to Mari-Anne Pisarri, Pickard and Djinis LLP (February 24, 2003). This letter is available on the Commission's Internet Web site at *http://www.sec.gov/divisions/marketreg/mr-noaction/dominionbond022403-out.pdf.*

[5] *See* Nationally Recognized Statistical Rating Organizations, Release No. 34–34616 (August 31, 1994), 59 FR 46314 (September 7, 1994).

[6] *See* Capital Requirements for Brokers or Dealers Under the Securities Exchange Act of 1934, Release No. 34–39457 (December 17, 1997), 62 FR 68018 (December 30, 1997).

[7] *See* the Report, *supra* note 2.

[8] Sarbanes-Oxley Act of 2002, Pub. L. 107–204, § 702(b), 116 Stat. 745 (2002).

could implement, perhaps with additional legislative authority, a much more pervasive regulatory scheme for credit rating agencies that addresses the full range of issues raised in the Report.

Discussed below are broad issues that have been raised during the Commission's ongoing review of credit rating agencies. Following the discussion of each issue is a possible approach the Commission could develop to address that issue, as well as a series of questions, the answers to which would assist the Commission in its review. The Commission wishes to encourage comments from market participants, other regulators, and the public at large.

II. Discussion

A. Alternatives to the NRSRO Designation

Some commenters [9] believe that the NRSRO designation acts as a barrier to entry into the credit rating business. Others have raised concerns about the extent of the Commission's legal authority to regulate or impose requirements on NRSROs. Commenters argue that the Commission does not have explicit regulatory authority over NRSROs, and that it would be inappropriate for the Commission to impose a more comprehensive regulatory framework on rating agencies absent legislation. Others have argued that NRSRO rating activities are journalistic and are consequently afforded a high level of protection under the First Amendment. According to these commenters, suggestions that the Commission inspect or otherwise impose regulatory burdens on NRSROs would implicate the NRSROs' First Amendment rights. They further believe that new legislation providing the Commission with additional authority over NRSROs would face the same First Amendment challenges.

In light of these concerns, some commenters have recommended that the Commission consider ceasing its use of the NRSRO designation. Before doing so, however, the Commission would need to identify alternatives capable of achieving the regulatory objectives currently served by use of the NRSRO designation in certain Commission rules.[10] (Other regulatory or legislative bodies would need to determine appropriate substitutes for that designation in any non-Commission rules or legislation.) To further that discussion, the Commission staff has identified possible alternatives to the NRSRO designation for significant Commission rules that utilize that concept. For example:

- *Rule 15c3–1 under the Exchange Act.* The Commission could allow broker-dealers to use internally-developed credit ratings for purposes of determining the capital charges on different grades of debt securities under the Net Capital rule. Strict firewalls could be required between the broker-dealer employees who develop internal credit ratings and those responsible for revenue production. In addition, a broker-dealer could be required to obtain regulatory approval of its credit rating procedures and rating categories before it could use internal credit ratings for calculating capital charges. The Commission also could allow broker-dealers to calculate capital charges using model-based statistical scoring systems and/or market-based alternatives, such as credit spreads. Finally, the Commission could require the securities industry self-regulatory organizations (''SROs'') to set appropriate standards for broker-dealers to use in determining rating categories for net capital purposes.
- *Rule 2a–7 under the Investment Company Act of 1940.* Rule 2a–7 limits money market funds to investing in ''high quality'' securities. The rule contains minimum quality standards based on an objective test—ratings issued by NRSROs—and on a subjective test—the credit analysis performed by the adviser to the money market fund. The Commission could eliminate the objective test from rule 2a–7, and rely solely on the subjective test.
- *Form S–3 under the Securities Act of 1933.* The Commission could allow a registrant to use Form S–3 for offerings of certain nonconvertible securities and asset-backed securities where specified investor sophistication or large size denomination criteria are met. With regard to asset-backed securities, the Commission also could permit Form S–3 to be used where specified asset and structure experience criteria are met.

The Commission seeks commenters' views in evaluating the advisability and feasibility of eliminating the NRSRO designation from Commission rules, the possible alternatives identified above, and/or any other possible alternatives to the NRSRO designation. In particular, the Commission seeks commenters' views in response to the following questions:

Question 1: Should the Commission eliminate the NRSRO designation from Commission rules?

Question 2: If so, what alternatives could be adopted to meet the regulatory objectives of the Commission rules that currently incorporate the NRSRO designation? What are their respective strengths and weaknesses?

Question 3: Specifically, what are the advantages and disadvantages of allowing broker-dealers to use internally-developed credit ratings to determine capital charges under the Net Capital rule? Is it appropriate to require strict firewalls between the broker-dealer employees who develop internal credit ratings and those responsible for revenue production? Should a broker-dealer be required to obtain regulatory approval of its credit rating procedures and rating categories before it could use internal credit ratings for calculating capital charges? If so, what factors should the Commission review in determining whether to grant such approval? If the Commission substitutes internal credit ratings for the NRSRO designation in the Net Capital rule, what would be the impact on broker-dealers, including small broker-dealers, and what costs would be associated with this change? If there would be an inordinate financial impact on small broker-dealers, are there market-based solutions that could reduce the compliance costs for them? For example, should the Commission permit large broker-dealers to sell their internal credit ratings to small broker-dealers for these purposes? If so, would this help to provide a more competitive marketplace for credit ratings? To what extent should the Commission exercise additional regulatory oversight of this activity (*e.g.*, to control potential conflicts of interest)?

Question 4: What are the advantages and disadvantages of allowing broker-dealers to use credit spreads to determine capital charges under the Net Capital rule and/or other Commission rules? How could capital charges be determined using credit spreads? For example, could the Commission base capital charges on the yield differential between particular debt securities and U.S. Treasury securities of comparable maturity, such that a larger differential results in a larger haircut? How could credit spreads be determined for newly-issued, thinly-traded, or privately-issued securities? Or for variable rate and other short-term synthetic securities

[9] The term ''commenters'' includes those who formally submitted comments in response to the Commission's 1994 concept release and 1997 rule proposal, as well as those contributing to the Commission's recent review of credit rating agencies, including participants at the Commission's November 2002 hearings.

[10] The NRSRO concept is currently utilized in the following Commission rules: 17 CFR 228.10(e), 229.10(c), 230.134(a)(14), 230.436(g), 239.13, 239.32, 239.33, 240.3a1–1(b)(3), 240.10b–10(a)(8), 240.15c3–1(c)(2)(vi)(E), (F), and (H), 240.15c3–1a(b)(1)(i)(C), 240.15c3–1f(d), 242.101(c)(2), 242.102(d), 242.300(k)(3) and (l)(3), 270.2a–7(a)(10), 270.3a–7(a)(2), 270.5b–3(c), and 270.10f–3(a)(3).

held by money market funds? Are there readily available public sources of information sufficient to calculate credit spreads on domestic and foreign debt securities? Are there other model-based statistical scoring systems and/or market-based alternatives that would be viable alternatives to NRSRO ratings?

Question 5: What are the advantages and disadvantages of requiring the SROs to set appropriate standards for broker-dealers to use in determining rating categories for net capital purposes? What form might these standards take?

Question 6: What are the advantages and disadvantages of eliminating the ''objective test'' from rule 2a–7, and relying solely on the ''subjective test''—the credit analysis performed by the adviser to the money market fund—for the purposes of determining asset quality?

Question 7: What are the advantages and disadvantages of relying upon specified investor sophistication, large size denomination, or asset and structure experience criteria for purposes of determining Form S–3 eligibility? Should the Commission explore these possibilities in more depth? If so, what specific criteria should be considered?

Question 8: Are there alternatives other than those discussed above that might be better substitutes for the NRSRO designation in particular Commission rules?

Question 9: If the Commission discontinued using the NRSRO designation, should an entity other than the Commission recognize NRSROs for uses other than Commission rules? If another entity, which entity? How would the transition from the Commission to that entity take place?

Question 10: If, on the other hand, the Commission should continue to use the NRSRO designation in some Commission rules, could that designation be eliminated from other rules? If so, which rules?

B. Recognition Criteria

Since the Commission adopted the NRSRO designation, Commission staff has developed a number of criteria for assessing the credit rating agencies whose ratings can be used for regulatory purposes. Before recognizing a credit rating agency as an NRSRO, the Commission staff first determines that the rating agency satisfies certain established criteria. The single most important criterion is that the rating agency is widely accepted in the U.S. as an issuer of credible and reliable ratings by the predominant users of securities ratings. The staff also reviews the operational capability and reliability of the rating agency, including: (1) The organizational structure of the rating agency; (2) the rating agency's financial resources (to determine, among other things, whether it is able to operate independently of economic pressures or control from the companies it rates); (3) the size and experience and training of the rating agency's staff (to determine if the entity is capable of thoroughly and competently evaluating an issuer's credit); (4) the rating agency's independence from the companies it rates; (5) the rating agency's rating procedures (to determine whether it has systematic procedures designed to produce credible and reliable ratings); and (6) whether the rating agency has internal procedures to prevent the misuse of non-public information and to minimize possible conflicts of interest, and whether those procedures are followed. These criteria are intended to reflect the view of the marketplace as to the credibility of the credit rating agency, and were developed, in part, after evaluating public comments received by the Commission on the NRSRO designation.

While some commenters believe that the current NRSRO recognition criteria are appropriate given the objectives of the NRSRO designation, others have commented that the criteria impose barriers to entry into the business of acting as a credit rating agency. Commenters have also indicated that the current NRSRO recognition process is not sufficiently transparent.

In addition, in light of recent corporate failures, some have criticized the performance of the credit rating agencies. Concerns also have been raised regarding the training and qualifications of credit rating agency analysts.

If the Commission retains the NRSRO designation, the Commission could seek to improve the transparency of the NRSRO recognition process by developing the following approach:

- The Commission could specify in more detail the types of information applicants need to provide to demonstrate, and that could be reviewed in evaluating, satisfaction of the various NRSRO criteria. For example, in reviewing the general acceptance of a rating agency as an issuer of credible and reliable ratings, the Commission could clarify that the review would consider evidence such as: (1) Attestations from authorized officers of users of securities ratings representing a substantial percentage of the relevant market that the applicant's ratings are credible and actually relied on by the user; (2) interviews with representatives of such users regarding the same; and (3) statistical data demonstrating market reliance on the applicant's ratings (*e.g.*, market movements in response to the applicant's rating changes).
- A rating agency that confines its activity to a limited sector of the debt market could be recognized as an NRSRO. The appropriateness of recognizing as an NRSRO a rating agency that confines its activity to a limited, or largely non-U.S., geographic area also could be considered.
- Recognition of NRSROs could occur through Commission action (rather than through staff no-action letters).
- Applications for NRSRO recognition could be publicized by the Commission, and public comment sought on the credibility and reliability of the applicant's ratings.
- The Commission could develop supplemental criteria that would be used to evaluate ratings quality applicable to both rating agencies performing traditional fundamental credit analysis and those primarily reliant on statistical models.
- A rating agency could be required to follow generally accepted industry standards of diligence, to be developed in consultation with a broad-based committee of market participants, in performing its ratings analysis.
- The Commission could establish a time period (*e.g.*, 90 days from receipt of all required information) to serve as a goal for action on NRSRO applications.

To assist the Commission in determining whether to modify the criteria currently used to recognize NRSROs (assuming the Commission continues to utilize the NRSRO concept), we seek commenters' views in response to the following questions:

Existing Substantive Criteria

Question 11: Are the criteria currently used by Commission staff to determine whether a credit rating agency qualifies as an NRSRO appropriate? If not, what are the appropriate criteria? How should a determination be made as to whether a credit rating agency has met each criterion?

Question 12: Is it appropriate to condition NRSRO recognition on a rating agency being widely accepted as an issuer of credible and reliable ratings by the predominant users of securities ratings in the United States (*e.g.*, underwriters, dealers, banks, insurance companies, mutual funds, issuers)? Would this general acceptance be verifiable through the examples set forth above (*e.g.*, requiring verification through attestations from, and interviews with, authorized officers of

users of securities ratings, as well as using statistical data to demonstrate market reliance on an applicant's ratings)? As a more objective way of evidencing market reliance and credibility, should NRSRO recognition be conditioned on a credit rating agency documenting that it has been retained to rate securities issued by a broad group of well-capitalized firms?

Question 13: Should the Commission condition NRSRO recognition on a rating agency developing and implementing procedures reasonably designed to ensure credible, reliable, and current ratings? At a minimum, should each NRSRO have rating procedures designed to ensure that a similar analysis is conducted for similarly situated issuers and that current information is used in the rating agency's analysis? What minimum standards should the Commission use to determine whether the agency's ratings are current? Should each NRSRO use uniform rating symbols, as a means of reducing the risk of marketplace confusion? When reviewing a rating agency's procedures for obtaining information on which to base a rating action, should the Commission establish minimum due diligence requirements for rating agencies? How could these minimum requirements be developed? By the Commission? By the industry, with Commission oversight?

Question 14: Should the extent of contacts with the management of issuers (including access to senior level management of issuers) be a criterion used to determine NRSRO status? Should the Commission limit the credit ratings that can be used for regulatory purposes to credit ratings that include access to senior management of an issuer? If so, why?

Question 15: To the extent a credit rating agency uses computerized statistical models, what factors should be used to review the models? Could a credit rating agency that solely uses a computerized statistical model and no other qualitative inputs qualify as an NRSRO?

Question 16: Should the size and quality of the credit rating agency's staff be considered when determining NRSRO status? Should the Commission condition NRSRO recognition on a rating agency adopting minimum standards for the training and qualifications of its credit analysts? If so, what entity should be responsible for oversight of qualifications and training? How could the Commission verify whether a member of a rating agency's staff is or was previously subject to disciplinary action by a financial (or other) regulatory authority?

Question 17: Should the Commission condition NRSRO recognition on an entity's meeting standards for a minimum number of rating analysts or a maximum average number of issues covered per analyst? For example, should the Commission question whether a single analyst can credibly and reliably issue and keep current credit ratings on securities issued by hundreds of different issuers? Or would this level of scrutiny involve the Commission too deeply in the business practices of rating agencies?

Question 18: Is a credit rating agency's organizational structure an appropriate factor to consider when evaluating a request for NRSRO status? Should the agency that seeks recognition consent to limiting its business to issuing credit ratings or could it conduct other activities, such as rating advisory services?

Question 19: Should the Commission consider a credit rating agency's financial resources as a factor in determining NRSRO status? If so, how? Should NRSRO recognition be conditioned on a rating agency meeting minimum capital or revenue requirements?

Other Factors To Be Considered

Question 20: Should a rating agency that confines its activity to a limited sector of the debt market be considered for NRSRO recognition? Should a rating agency that confines its activity to a limited (or largely non-U.S.) geographic area also be considered?

Question 21: Should the Commission consider a provisional NRSRO status for rating agencies that comply with NRSRO recognition criteria but lack national recognition?

Question 22: Should the Commission develop supplemental criteria to evaluate ratings quality that would be applicable to both rating agencies performing traditional fundamental credit analysis and those primarily reliant on statistical models?

Question 23: Should the Commission consider other criteria in making the NRSRO determination, such as the existence of effective procedures reasonably designed to prevent conflicts of interest and alleged anticompetitive, abusive, and unfair practices, and improve information flow surrounding the ratings process?[11]

Question 24: Should the Commission expect NRSROs to follow generally accepted industry standards of diligence? If so, should the Commission encourage the establishment of a committee of market participants to develop those standards? Or should they be devised through other means?

Recognition Process

Question 25: Should recognition of NRSROs occur through Commission action (rather than through staff no-action letters)? Should the Commission establish an appeal process if the staff remains responsible for the recognition of NRSROs?

Question 26: Should the Commission publicize applications for NRSRO recognition, and seek public comment on the credibility and reliability of the applicant's ratings?

Question 27: Should the Commission establish a time period to serve as a goal for action on applications for NRSRO recognition? If so, would an appropriate time period be 90 days after all required information has been received, or a shorter or longer period?

C. Examination and Oversight of NRSROs

Each of the current NRSROs is registered as an investment adviser under the Investment Advisers Act of 1940 (''Advisers Act''). The Commission's 1997 NRSRO rule proposal would have required this registration. Commenters disagree on whether NRSROs should or could be subject to this amount of regulatory oversight, or even greater regulatory oversight. Some indicate that greater regulation is essential given the importance of their credit ratings to investors, and the influence such ratings can have on the securities markets. Others question the authority and the feasibility of the Commission to impose greater oversight. Some also question whether additional regulatory oversight—particularly the burdens associated with the possibility of a regulatory assessment of the quality of ratings analysis—is justified in light of the performance of credit rating agencies over the past decades.

Assuming the Commission can and should increase its ongoing oversight of NRSROs, the Commission could develop the following approach:

- The Commission could condition NRSRO recognition on a rating agency's agreeing to file annual certifications with the Commission that it continues to comply with all of the NRSRO criteria.
- The Commission also could solicit public comment annually on the performance of each NRSRO, including whether the NRSRO's ratings continue to be viewed as credible and reliable.
- The Commission could condition NRSRO recognition on a rating agency's

[11] *See* sections D, E, and F *infra* for additional discussion of these issues.

agreeing to maintain specified records relating to its ratings business, including those relating to ratings decisions.

- The Commission could condition NRSRO recognition on a rating agency's agreeing to submit to regular Commission inspections and examinations to determine compliance with the appropriate regulatory regime for NRSROs.
- The Commission could condition NRSRO recognition on a rating agency's agreeing to provide Commission staff with access to all personnel and books and records.
- The Commission could condition NRSRO recognition on a rating agency's agreeing to cooperate with the Commission in relevant investigations, including providing access to records and personnel.

To seek commenters' views on whether credit rating agencies should be subject to ongoing oversight, the Commission requests responses to the following questions:

Question 28: Should NRSRO recognition be conditioned on an NRSRO's meeting the original qualification criteria on a continuing basis? If so, should a failure to meet the original qualification criteria lead to revocation of NRSRO recognition? Should some other standard of revocation apply?

Question 29: What would be the appropriate frequency and intensity of any ongoing Commission review of an NRSRO's continuing compliance with the original qualification criteria?

Question 30: Should NRSRO recognition be conditioned on a rating agency's filing annual certifications with the Commission that it continues to comply with all of the NRSRO criteria?

Question 31: Should the Commission solicit public comment on the performance of each NRSRO, including whether the NRSRO's ratings continue to be viewed as credible and reliable? If so, how frequently should public comment be solicited (*e.g.*, annually)?

Question 32: Should NRSROs be subject to greater regulatory oversight? If so, what form should this additional oversight take? If necessary, should the Commission seek additional jurisdictional authority from Congress?

Question 33: Should NRSRO recognition be conditioned on a rating agency's registering as an investment adviser under the Advisers Act? If so, how should the various sections of the Advisers Act apply to NRSROs? Could the Advisers Act rules be amended to make them more relevant to the businesses of NRSROs? Alternatively, would it be more appropriate for the Commission to adopt a separate registration and regulatory regime for NRSROs?

Question 34: Should NRSRO recognition be conditioned on recordkeeping requirements specifically tailored to the ratings business? Should NRSRO recognition be conditioned on a rating agency's maintaining records relating to the ratings business, including those relating to rating decisions?

Question 35: Are there minimum standards or best practices to which NRSROs should adhere? If so, how should these be established? By the Commission? By the industry, with Commission oversight? Should they be incorporated into the conditions for NRSRO recognition? Would it, or would it not, be a productive use of Commission resources to develop the expertise to review, *e.g.*, issues related to the quality and diligence of the ratings analysis?

Question 36: If a currently recognized NRSRO gave up its NRSRO recognition because of concerns regarding the regulatory and liability environment, what effect, if any, would that action have on the market?

D. Conflicts of Interest

Conflicts of interest may arise in several areas within a credit rating agency. As registered investment advisers, the current NRSROs have a legal obligation to avoid conflicts of interest or disclose them fully to subscribers. Reliance by credit rating agencies on issuer fees could lead to a conflict of interest and the potential for rating inflation. While many commenters believe that NRSROs have effectively managed this conflict, they stress the importance of NRSROs implementing stringent firewalls, independent compensation, and other related procedures. The NRSROs have represented that they have implemented a number of policies and procedures designed to assure the independence and objectivity of the ratings process, such as requiring ratings decisions to be made by a ratings committee, imposing investment restrictions, and adhering to fixed fee schedules. In addition, they assert that rating analyst compensation is merit-based (*e.g.*, based on the demonstrated reliability of their ratings), and is not dependent on the level of fees paid by issuers the analyst rates. Further, the NRSROs take the position that their reputation for issuing objective and credible ratings is of paramount importance and that they would not jeopardize their reputation by attempting to appease an issuer.

Some also believe that conflicts of interest can arise when credit rating agencies offer consulting or other advisory services to the entities they rate. The NRSROs generally represent that they have established extensive guidelines to manage conflicts in this area, including firewalls to separate their ratings services from other ancillary businesses. They also indicate that advisory services presently represent a very small portion of their total revenues. Commenters have also expressed concern that conflicts in this area could become much greater if these ancillary services were to become a substantial portion of an NRSRO's business, and suggestions were made that their percentage contribution to the total revenues of an NRSRO be capped. Others were concerned that issuers could be unduly pressured to purchase advisory services, particularly in cases where they were solicited by a rating analyst at an NRSRO.

Finally, some have expressed concern that subscribers, as a practical matter, have preferential access to rating analysts and, as a result, inappropriately may learn of potential rating actions or other nonpublic information.

To manage these potential conflicts of interest, the Commission could develop the following approach:

- NRSRO recognition could be conditioned on a rating agency's developing and implementing procedures to address issuer influence (*e.g.*, prohibiting ratings employees from participating in the solicitation of new business or fee negotiations, and basing their compensation on factors other than business maintenance or development).
- NRSRO recognition could be conditioned on a rating agency's developing and implementing procedures to address subscriber influence (*e.g.*, restricting private contacts between ratings employees and subscribers, to help prevent intentional or inadvertent disclosure of confidential issuer information and information regarding forthcoming rating changes).
- NRSRO recognition could be conditioned on a rating agency's developing and implementing procedures to address issues regarding ancillary fee-based services (*e.g.*, establishing strict firewalls between ratings employees and ancillary business development, and prohibiting compensation of ratings employees from being impacted by revenues from these services).
- NRSRO recognition could be conditioned on a rating agency's having adequate financial resources (*e.g.*, net assets of at least $100,000, or annual gross revenues of at least $1,000,000) to

reduce dependence on individual issuers or subscribers.

• NRSRO recognition could be conditioned on a rating agency's deriving less than a certain percentage of its revenues (*e.g.*, 3%) from a single source to help assure that the NRSRO operates independently of economic pressures from individual customers.

To address the concerns raised with regard to conflicts of interest, the Commission requests commenters' views in response to the following questions:

Question 37: Should the Commission condition NRSRO recognition on an NRSRO's agreeing to document its procedures that address potential conflicts of interest in its business including, but not limited to, potential issuer and subscriber influence? If so, what other potential conflicts should these procedures address?

Question 38: To what extent could concerns regarding potential conflicts of interest be addressed through the disclosure of existing and potential conflicts of interest when an NRSRO publishes ratings?

Question 39: Should NRSRO recognition be conditioned on an NRSRO prohibiting employees involved in the ratings process (*e.g.*, rating analysts and rating committee members) from participating in the solicitation of new business and from fee negotiations? Would conditioning NRSRO recognition on a rating agency's establishing strict firewalls between employees in these areas and credit analysts address potential conflicts? Should the Commission also address the credit analyst compensation structure to minimize potential conflicts of interest?

Question 40: Should NRSRO recognition be conditioned on an agreement by a rating agency not to offer consulting or other advisory services to entities it rates? Could concerns regarding conflicts of interest be addressed by limiting or restricting consulting or advisory services offered by rating agencies?

Question 41: Should NRSRO recognition be conditioned on a prohibition on credit rating analysts employed by NRSROs from discussing rating actions with subscribers? If not prohibited, should the Commission adopt limits on contacts between analysts and subscribers? Or are existing remedies—antifraud, contractual, or otherwise—sufficient to deter inappropriate disclosures to subscribers?

Question 42: Should NRSRO recognition be conditioned on a rating agency having adequate financial resources (*e.g.*, net assets of at least $100,000, or annual gross revenues of at least $1,000,000) to reduce dependence on individual issuers or subscribers?

Question 43: Should NRSRO recognition be conditioned on a rating agency not deriving more than a certain percentage of its revenues (*e.g.*, 3%) from a single source to help assure that the NRSRO operates independently of economic pressures from individual customers?

Question 44: Are there other ways to address potential conflicts of interest in the credit rating business or to minimize their consequences?

E. Alleged Anticompetitive, Abusive, and Unfair Practices

Some have alleged that certain of the larger credit rating agencies abused their dominant market position by engaging in certain aggressive competitive practices. Fitch complained that S&P and Moody's were attempting to squeeze it out of certain structured finance markets by engaging in the practice of ''notching''—lowering their ratings on, or refusing to rate, securities issued by certain asset pools (*e.g.*, collateralized debt obligations), unless a substantial portion of the assets within those pools were also rated by them.

With respect to unsolicited ratings, some commenters have questioned the appropriateness of a rating agency's attempting to induce an issuer to pay for a rating the issuer did not request (*e.g.*, sending a bill for an unsolicited rating, or sending a fee schedule and ''encouraging'' payment).

To address these issues, the Commission could develop the following approach:

• NRSRO recognition could be conditioned on a rating agency's implementing adequate procedures to prevent anticompetitive and other unfair practices, including prohibitions on: (1) Requiring a ratings client to purchase an ancillary service as a precondition for performance of the ratings service and, perhaps, other anticompetitive practices (even those that would not violate the antitrust laws); and (2) engaging in specified ''strong-arm'' tactics with respect to unsolicited ratings.

The Commission invites commenters' views concerning the existence of these practices and requests commenters' views on the following questions:

Question 45: Should the Commission identify specific anti-competitive practices that NRSROs would agree to prohibit as a condition to NRSRO recognition? If so, what are those practices?

Question 46: Would it be sufficient to condition NRSRO recognition on the adoption of procedures intended to prevent anticompetitive, abusive, and unfair practices from occurring?

Question 47: Should NRSRO recognition specifically be conditioned on an NRSRO's agreeing to forbear from requiring issuers to purchase ancillary services as a precondition for performance of the ratings service?

Question 48: Should NRSRO recognition specifically be conditioned on an NRSRO's not engaging in specified practices with respect to unsolicited ratings (*e.g.*, sending a bill for an unsolicited rating, sending a fee schedule and ''encouraging'' payment, indicating a rating might be improved with the cooperation of the issuer)?

F. Information Flow

Several commenters have stressed the importance of transparency in the ratings process. Among other things, they assert that fluctuations in security prices in response to rating actions could often be less pronounced if credit rating agencies disclosed more information about the assumptions underlying their ratings (*e.g.*, specific events that might prompt a rating change), as well as the information and documents reviewed by them in reaching a ratings decision (*e.g.*, whether the issuer participated in the rating process).

To address issues that have been raised with regard to information flow from credit rating agencies, the Commission could develop the following approach:

• NRSRO recognition could be conditioned on a rating agency's implementing procedures to assure appropriate disclosure of key information about its ratings and rating processes, including: (1) Widespread public dissemination of its ratings; (2) identifying an unsolicited rating as such; (3) annual disclosure of specified ratings performance information; and (4) public disclosure of the key bases of, and assumptions underlying, the ratings decision (pursuant to generally accepted industry standards to be developed by a broad-based committee of market participants).

• NRSRO recognition could be conditioned on a rating agency's implementing procedures to assure appropriate public notification when it ceases rating/following an issuer.

To explore ways to improve the quality of information available to users of credit ratings, the Commission requests commenters' views on the following questions:

Question 49: Should the Commission address concerns about information flow from rating agencies? If so, should

the Commission condition NRSRO recognition on a rating agency's agreeing to establish procedures to assure certain disclosures relating to its ratings business, such as those described above? Are there other disclosures that could be appropriate?

Question 50: Specifically, should NRSRO recognition be conditioned on a rating agency disclosing the key bases of, and assumptions underlying its rating decisions? If so, should these disclosures be made pursuant to standards developed by the industry, or otherwise?

Question 51: Would it be advisable for the Commission to condition NRSRO recognition on a rating agency's agreeing to disclose performance information periodically? If so, what type of performance information would be most useful? How often should it be disclosed?

Question 52: Should NRSRO recognition be conditioned on a rating agency's disclosing whether or not an issuer participated in the rating process? Or, could issuers be required to make such disclosures?

Question 53: Concerns have been raised that certain credit rating agencies make their credit ratings available only to paid subscribers, and that it would be inappropriate to require users of credit ratings to subscribe for a fee to an NRSRO's services to obtain credit ratings for regulatory purposes. What steps, if any, should the Commission take to address these concerns? For example, should NRSRO recognition be conditioned on a rating agency's agreeing to public dissemination of its ratings on a widespread basis at no cost, as is currently the case?

Question 54: Should NRSRO recognition be conditioned on a rating agency's implementing procedures to assure public notification when it ceases rating/following an issuer. If so, what form of public notification would be appropriate?

G. Other

During the Commission's review of credit rating agencies, certain issues were raised that do not directly relate to the topics discussed above, but on which the Commission is interested in receiving comment. First, the Commission is interested in exploring whether there are types of information that, if disclosed by an issuer, or disclosed in a more meaningful way, would be useful to rating agencies in making their credit assessments. In addition, concerns were raised that a ''ratings cliff'' exists in the commercial paper market, such that a slight downgrade of an issuer's commercial paper rating can dramatically restrict its access to the U.S. money markets.

In this regard, the Commission solicits commenters' answers to the following questions:

Question 55: What steps, if any, can the Commission take to improve the extent and quality of disclosure by issuers to rating agencies or to the public generally, and in particular, regarding: (a) Ratings triggers in financial covenants tied to downgrades; (b) conditional elements of material financial contracts; (c) short-term credit facilities; (d) special purpose entities; and (e) material future liabilities.

Question 56: Is it appropriate for the Commission to take steps to minimize the ratings ''cliff'' that has been represented to be particularly pronounced in the commercial paper market? If so, what steps should the Commission take?

III. Solicitation of Additional Comments

In addition to the areas for comment identified above, we are interested in any other issues that commenters may wish to address relating to credit rating agencies. Please be as specific as possible in your discussion and analysis of any additional issues.

By the Commission.

Dated: June 4, 2003.

Jill M. Peterson,

Assistant Secretary.

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''PLUS'' (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.nara.gov/fedreg/plawcurr.html*.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.access.gpo.gov/nara/nara005.html*. Some laws may not yet be available.

S. 243/P.L. 108–28

Concerning participation of Taiwan in the World Health Organization. (May 29, 2003; 117 Stat. 769)

S. 330/P.L. 108–29

Veterans' Memorial Preservation and Recognition Act of 2003 (May 29, 2003; 117 Stat. 772)

S. 870/P.L. 108–30

To amend the Richard B. Russell National School Lunch Act to extend the availability of funds to carry out the fruit and vegetable pilot program. (May 29, 2003; 117 Stat. 774)

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